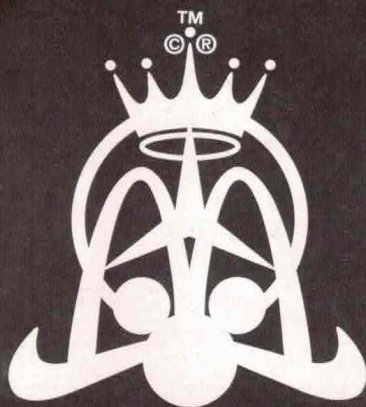
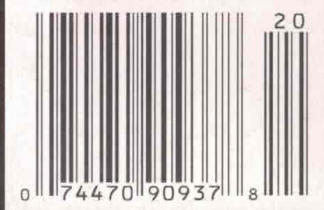


# STAY FREE!

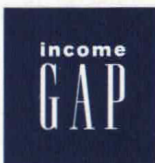


**COPYRIGHT ISSUE**

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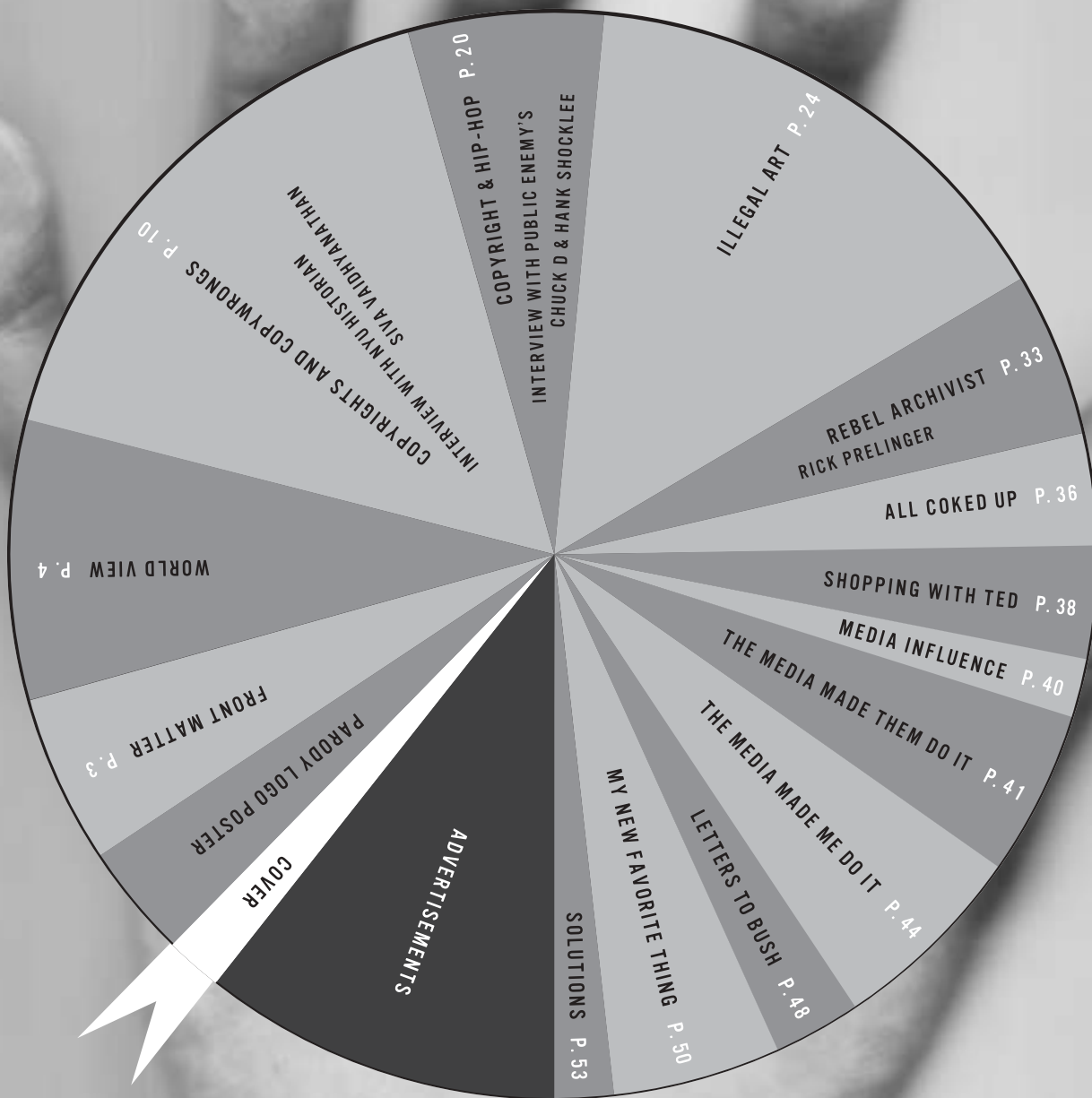




The word "Mob" in a stylized font, with "Mo" in blue and "b" in red.The words "Pizza Gut" in a handwritten-style font, with a red hat above the text.The word "Crapplebee's" in a green-bordered box, with a red apple above the text.The word "Enron" in a stylized, 3D font, with the letters in green, blue, and red.The word "obey" in a stylized font, with the letters in red, blue, and green. Below it, the text "The World's Online Marketplace™" is written.The word "COCKBLOCKER" in a bold, yellow font, set against a blue background that looks like a ticket stub.The word "EXPLOIT" in a bold, red font, set against a blue background.The words "SPRAWL★MART" in a bold, blue font, with a star between the words.The word "CANCER" in a stylized, yellow font, with a shadow effect.The words "income GAP" in a white font, set against a dark blue background.The word "Tiresblown" in a stylized, red font.The word "FONY" in a bold, black font.

**STAY FREE! LOGO POSTER (PULL IT OUT AND HANG IT IN YOUR CUBICLE)**

Adbusters (FRAUD), Agitart.org (INCOME GAP), Anarchosyndicalism.org (AMERICANEXCESS), Sam Baker (SLAVE), Holly Camp (BABY), Joe Garden (CRAPPLEBEES), Nicole Gomez (MONOPOLY), Sam Hayes (EXXPLOIT), Steve Hunt (AMERICAN SPIRITS), Valerie Kameya (PIZZA), ABERCOMBIE'S BITCH, Jeremiah Littlepage (PEOPLE MURDERERS), Tom McGlynn (MOB, OD), Carrie McLaren (GULF WAR, TIRESBL



## COPYRIGHT ISSUE

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**Madeleine Baran**  
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COPY EDITORS

**Eva Pendleton**  
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GUEST DESIGNER

**Keira Alexandra**

VICE PRESIDENT

**Alexandra Ringe**

EDITOR & PUBLISHER

**Carrie McLaren**

ILLEGAL

ART WEBSITE

**Drew Beck**  
**Peter Bergin**  
**Carrie McLaren**

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IN January, BREWSTER KAHLE approached ME with AN idea: would STAY FREE! be interested in ORGANIZING AN EXHIBIT Focused ON COPYRIGHT Law? The Founder OF the INTERNET ARCHIVES, Kahle is CONCERNED ABOUT the INCREASING tendency OF CORPORATIONS to SHUT DOWN artists, SOFTWARE developers, AND OTHER CREATIVE types FOR INFRINGING ON what LAWYERS CALL "intellectual property RIGHTS." WHILE RECOGNIZING the NEED FOR copyright, KAHLE and his CRONIES (us) FEAR THAT NEW LAWS HAVE TRANSFORMED copyright FROM A tool that BENEFITS creative people INTO A weapon USED AGAINST them. So Kahle offered to FUND A project EXPLORING this ~~idea~~ idea. I Gladly Accepted, and THE RESULTING **ILLEGAL ART EXHIBIT** CAN be seen in NEW YORK this Fall, in CHICAGO this winter, on the WEB ([www.illegal-art.org](http://www.illegal-art.org)) and in THIS HERE issue OF Stay Free!

Overzealous intellectual property Lawyers ARE nothing NEW, of course. WHEN NEGATIVLAND WAS sued ten years Ago by U2's Label, Island RECORDS, the case ILLUMINATED the issue INVOLVED WITH "FAIR USE" and the "PUBLIC DOMAIN." (you can READ more about these terms in our interview with SIVA VAIDHYANATHAN.) BUT recently Intellectual property Laws HAVE EXPANDED INTO VAST NEW territories: IF the ENTERTAINMENT industry GETS its way, REGULATIONS WILL NOT ONLY deter copying but WILL LIMIT how we READ, WATCH, and use MEDIA. IN FACT, RECENT LEGISLATION HAS ALREADY RESTRICTED FREEDOMS WE OFTEN take FOR GRANTED:

- \* THE ability to QUOTE FROM Articles or other texts IN A REVIEW.
- \* The Ability to ~~copy~~ copy music you've PURCHASED FOR personal use
- \* The Ability to BORROW ~~materials~~ materials FROM A LIBRARY
- \* The Ability to RECORD TV BROADCASTS FOR personal use

The stakes in the copyright WARS are ENORMOUS, FOR the content industries AND FOR their CRITICS. AMERICA'S ECONOMY is, AFTER all, increasingly CENTRED ON intellectual property. THE U.S. DOESN'T ~~MANUFACTURE~~ MANUFACTURE THINGS ANYMORE; it MANUFACTURES BRANDS, IMAGES, and PERCEPTIONS — THAT'S where the MONEY is. So FOR those OF us in the TRENCHES, ~~GUARANTEEING~~ GUARANTEEING OPEN ACCESS to cultural material isn't GOING TO BE EASY. AS we FIGHT DRACONIAN copyright Laws we NEED TO COME UP WITH NEW ways to SHARE cultural material, while FAIRLY COMPENSATING CREATORS.

ILLEGAL ART is, we HOPE, a FIRST step TOWARD ESTABLISHING A MORE public DIALOGUE ABOUT copyright.

CARRIE McLAREN  
FALL 2002



# WORLD VIEW



McDonald's in France has placed "advertorials" in women's magazines. Written by an independent nutritionist, the copy advises readers not to eat too much McDonald's food or feed too much of it to their children

because it does not constitute a balanced diet. The ads also feature McDonald's perspective on the healthier side of their menu, such as the inclusion of orange juice as an alternative to soda. Although McDonald's has always maintained that its food is part of a balanced diet, a spokeswoman denied any change in policy: "The key part of the message is that you shouldn't do anything too often."

Meanwhile, McDonald's of Norway launched a new hamburger called the McAfrika: beef, cheese, tomatoes, and salad on pita bread, a combination supposedly based on a recipe from Africa. Norwegian groups working on aid for African countries immediately protested the new entrée; Linn Aas-Hansen of Norwegian Church Aid lambasted the introduction of the sandwich as "inappropriate and distasteful" when "large portions of southern Africa are on the verge of starvation." So far McDonald's of Norway has offered to put collection boxes and aid-to-Africa fund-raising posters in its restaurants but refuses to donate any of the McAfrika proceeds to aid groups, withdraw the hamburger, or change its name. (*The Guardian*, May 31, 2002 & August 24, 2002)

According to a pre-Enron survey conducted by Excedrin, accountants get the most headaches; librarians are second. (*Syracuse New Times*, March 20–27, 2002)



Hallmark is helping the Discover credit card company persuade customers to pay overdue bills. Instead of the typical warning letter, cardholders behind on payments will get hand-addressed, hand-signed greeting cards that are meant to look like a message from a friend who

"is understanding your problem and encouraging you and giving you hope." The front of one such card shows a watercolor of a babbling brook; inside, the greeting reads, "I don't know about you, but I find that life often takes sudden turns—many times without warning." Then the subject switches from I to we: "Please know that at Discover Card, we understand life's unexpected detours and are dedicated to serving you in any way we can," followed by an 800 number to arrange for payment. (*The Wall Street Journal*, May 17, 2002)





Throughout the 1980s and into the '90s, the tobacco industry aggressively pursued product placement in TV shows and movies. Early in the decade, RJ Reynolds, Philip Morris, Brown and Williamson, and the American Tobacco Company each hired product placement firms that put cigarettes and signs advertising cigarettes in "positive situations" on TV and in movies and "kept brands from being

used in negative situations." RJ Reynolds went so far as to provide free cigarettes to actors on a monthly basis. After the Tobacco Control report came out, health advocates in California called for the movie industry to take cigarette use into account when assigning movie ratings.

Another recent study detailing tobacco's business tactics, in this case from *The Journal of the American Medical Association*, shows that Philip Morris used financial pressure in the 1980s to limit drug companies' marketing of nicotine gum and skin patches. For example, when Merrell Dow introduced Nicorette gum in 1980, Philip Morris demanded that Dow limit Nicorette marketing to people who need to quit for immediate health reasons, as opposed to smokers at large; it threatened to pull out of its \$8-million-a-year deal with Dow's agricultural division, which made chemicals that help moisten tobacco. Although Dow tried to appease Philip Morris by canceling an antismoking newsletter for doctors, Philip Morris wasn't satisfied and killed the chemical account. According to an internal Philip Morris memo, "Dow was informed that the recent spate of activity can only be interpreted as a conscious corporate decision that Nicorette is more important than the Philip Morris (and other tobacco) business." The makers of quit-smoking products say that such ties between themselves and tobacco concerns no longer exist due to various mergers and reorganizations. (*Tobacco Control*, March 1, 2002; *The Philadelphia Inquirer*, March 14, 2002; *The New York Times*, August 14, 2002)



As part of the stage routine on Britney Spears's "Dream within a Dream" tour this year, her drummer, Slam, told stadium audiences to buy Samsung cell phones "because that's the phone Britney uses." He also read them a poem he said he had written about his love for Pepsi and got them to shout "Pepsi" every time he pointed to a Pepsi bottle. (*San Diego Union-Tribune*, June 7, 2002)

Due to severe budget cuts by the state of North Carolina, Central Piedmont Community College in Charlotte has found four local companies to sponsor courses. Explained college president Tony Zeiss, "We need to raise money for ourselves. We need to become far more entrepreneurial." (*Charlotte Observer*, June 10, 2002)



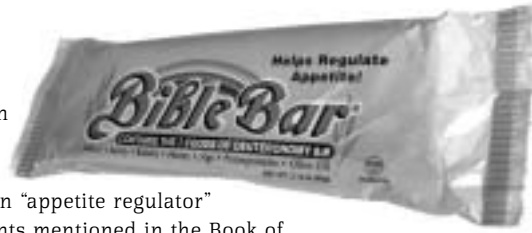
Botox injections are now being used by businesspeople and lawyers to eliminate wrinkles that can indicate anger, anxiety, or any other emotion that could interfere with closing a deal. Stanley Jacobs, a plastic surgeon in Santa Rosa, California, said that many of his Botox patients are salespeople who have to show one emotion while feeling another. A principal at a New York City real estate investment firm believes that Botox increased the value of his closed sales by 10 to 30 percent: "When you look strong and tough and not afraid, people respect you more. Showing less expression really makes a statement." David Aaron, a cosmetic dermatologist in Beverly Hills, injects Botox into the brows and palms of stockbrokers and trial lawyers to paralyze their pores and prevent sweat, nervous or otherwise. (*The Wall Street Journal*, July 31, 2002)

When groom Alan Cogan of Cork, Ireland, heard his best man Mike Foley's toast, he began "wondering how [Foley] had suddenly become so verbose and humorous." The answer: the best man had bought a ghostwritten, customized toast for \$105 on SpeechForYou.com, which sells about 140 speeches a month. Several other sites are now in the same business. At InstantWeddingToasts.com, about 15 people a day buy speech templates for \$17.95 that allow the user to "create a memorable heartfelt wedding speech just by filling in a few blanks." A recent sale on UltimateSpeeches.com offered "30 percent off all prewritten Best Man speeches" featuring such lines as "A case of love, pure and simple. [Bride's name] is pure and [groom's name] is simple." (*The Wall Street Journal*, June 19, 2002)

Campgrounds have entered the luxury market. An estimated 850 tent sites nationwide now offer such services as deep-tissue massages, wine tastings, rides to your campsite in a golf cart, internet access, espresso at the campground store, and maid service. (*The Wall Street Journal*, July 19, 2002)

Part of a line of Bible-based health foods made by House of David,

the Bible Bar is an "appetite regulator" made of ingredients mentioned in the Book of Deuteronomy: figs, pomegranates, barley, and olive oil, among others. The bars are organic, containing only the naturally-occurring substances "placed in them by God himself." According to the company's website, many people overlook the Bible's references to diet, thereby missing an opportunity to keep their bodies healthy and pure: "Our motto is to bring you nutrition truly as God intended."



For the first time, the U.S. Army has designed games solely for propaganda purposes, in this case, recruitment: the Windows game "America's Army: Operations" and its companion, "America's Army: Soldiers," which together will cost about \$7 million for design and server support. Players of "AA: O" begin with basic training, then "graduate" to compete against other players online in bullet-filled but bloodless missions, all the while being reminded to click on the link to the army's website. "In World War II, we had newsreels," said Lieutenant Colonel Casey Wardynski, director of the army's internal consulting team. "Then came TV ads. More recently we've had banners. This is just the next step." (*wired.com*, July 4, 2002)

Pregnant women who aren't satisfied with their ultrasound from the doctor's office can now go to the mall for more. Before the Stork, one of the companies in the fetal-portrait business, sells a \$325 "watch my development" package that includes six ultrasounds (with video) and a stuffed animal. (*The Wall Street Journal*, September 5, 2002)

The United States, among other countries, exports anywhere from 50 to 80 percent of its electronics waste—computers, televisions, circuit boards, and the like—to Asian nations where it is "recycled" for parts and precious metals. According to a report released by a coalition of five environmental groups, this process causes major health and environmental hazards. The drinking water in Guiyu, in Guangdong province in China, became so polluted that the region has had to have water trucked in from 20 miles away. Meanwhile, Guiyu's workforce (including young children) engages in such dangerous tasks as burning plastics and wires in the open air, cracking and dumping cathode ray tubes full of lead, and breaking apart toner cartridges by hand to retrieve leftover ink, inhaling the ink dust in the process. The workers are given very little or no protective gear and usually are not taught safety procedures. (*The New York Times*, February 25, 2002)



CHAD NACKERS

Joe Garden models his hand-crafted bootleg Tommy Hilfiger tee.

If you're single, seeing a therapist, and willing to spend \$2,000, you may be eligible for TheraDate, a New York City matchmaking service in which psychiatrists, psychologists, and other counselors compare notes on their eligible patients and arrange dates for those whose emotional troubles and concerns are most alike. Explained TheraDate's founder, Dr. Frederick B. Levenson, "Similarity throughout the literature promotes compatibility. Opposites attracting is a statistical myth." Once hooked up, patients are supposed to discuss their new relationships in therapy. So far, 20 therapists have offered to be matchmakers. (*The New York Observer*, April 15, 2002)



The *New England Journal of Medicine* has relaxed its conflict-of-interest rules for authors because it is having trouble finding writers without financial ties to drug companies. Previously, people with a financial stake in either a drug to be discussed in an article or in its competitors were precluded from authoring an editorial or review; now the *Journal* only forbids writers who receive more than \$10,000 a year from a drug company or who have stock options or patent interests in a drug. (*The Associated Press*, June 13, 2002)



The auto industry has created a level beyond the luxury car: it's the "ultraluxury car."  
(*The Philadelphia Inquirer*, August 22, 2002)



Island Def Jam Music Group is negotiating a deal with Hewlett-Packard to mention HP products in hip-hop lyrics. (*Ad Age*, September 9, 2002)



Instead of waiting for drug companies to show them a finished product, ad agencies are now getting involved in the earliest stages of drug development, recruiting patients for clinical trials, and in some cases, sponsoring independent tests of experimental drugs. Such efforts help the

drug companies get their products approved sooner by the FDA and help the ad agencies land accounts for the approved drugs. Thomas Harrison, CEO of Omnicom, the most aggressive of the ad firms involved in drug development, dismissed the idea that his company's clinical work might be biased, saying, "All we want to do is speed up the process. What we want to try to do is look at the molecule in the test tube as a brand. A lot of people don't think a brand is a brand until it has the FDA approval. But we are asking, what is the maximum commercial potential of this molecule? What will it be when it grows up? What is the message?" (*The Wall Street Journal*, March 13, 2002)

For the debut album by the Planets, British composer and producer Mike Batt wrote variations on several classical standards. One track, "A One Minute Silence," featured sixty seconds of silence. Batt credited himself and John Cage as its composers as a tribute to Cage's silent 4'33". After the CD was released, Cage's publisher sent Batt a letter demanding royalties for the track. Explained Gene Caprioglio, a representative for C.F. Peters, Cage's U.S. publisher: "If Mr. Batt wants to produce a minute of silence under his own name, we would obviously have no right to royalties." (*andante.com*, June 25, 2002)



NBC is promoting its fall TV lineup at Baskin-Robbins with such ice cream flavors as Will & Grace's Rocky Road to Romance, Fear Factor Sundae, Good Morning Miami Mint, and Pralines 'n' American Dreams. (*The Washington Times*, July 23, 2002)





From an Italian coffin maker's promotional calendar for 2002, available at [www.cofanifunebri.it/sexy-calendario.htm](http://www.cofanifunebri.it/sexy-calendario.htm).



For almost a decade in North Texas, Coca-Cola has been repackaging soda with expired "sell by" dates and selling it as new to stores in black neighborhoods. William D. Wright, a Coke deliveryman for 14 years, says he took expired soda cans out of their cases and put them

into fresh boxes with new dates stamped on them. Every time he mentioned it to his supervisors, he'd hear, "I'm the boss. You do what I say." None of the dozens of witnesses to these practices suggest that Coke put customers' health at risk, since soda can be old enough to grow mold before making anyone sick; rather, they consider it an issue of fairness because soda that is past its date goes flat and loses its taste. (*The New York Times*, May 19, 2002)

*Stay Free!* circulated the news story above on our email list and received the following response from a reader:

When I was young, my dad and I always thought it was really weird that on Christmas Eve there would be an aisle full of Christmas Coke cans, and the day after Christmas they would all mysteriously disappear. Years later we finally figured it out. We were on a family vacation in Mexico and stopped at a small rural convenience store. Even though it was the middle of March, their soda section was stocked with the previous year's Christmas Cokes.

—Sam Liberto



Bangkok gas deliverymen have been told to stop wearing Spider-Man outfits but that it's OK for them to dress as monkeys. Lawyers for Marvel Comics threatened to sue the owner of the Bangkok store for infringing on its Spider-Man copyright but did

not discourage the use of monkey suits. As licensing manager Sirigan Phipitragsee explained, monkey costumes are permitted "because monkeys don't have intellectual property rights." ([ananova.com](http://ananova.com), August 14, 2002)

**Stay Free! seeking NYC AREA INTERN.** Looking for motivated, smart, independent male or female to share writing and research skills, activism experience, and sense of humor. Must enjoy unstructured environments and sunsets.

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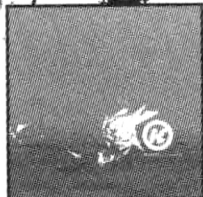


JULIE LEVITT, PEABODY, MA, 2002

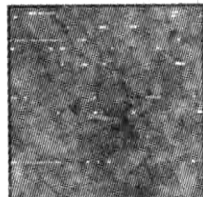
Several news stories in *World View* were submitted by *Stay Free!* readers. Thank you, thank you, thank you, and please keep them coming!

—[carrie@stayfreemagazine.org](mailto:carrie@stayfreemagazine.org)

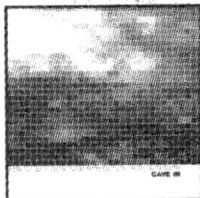
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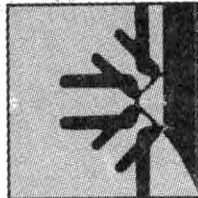
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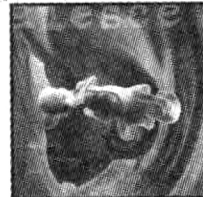
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"BODIES FOR STRONTIUM 90" CD  
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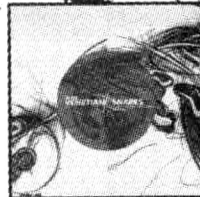
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# QANDNOTU

# COPY RIGHTS & COPY WRONGS

10

“Thomas Jefferson would have loved Napster,” Siva Vaidhyanathan has argued. And we’re inclined to trust him on this, because he has been tracking copyright law since its dawn.

Vaidhyanathan is the author of the excellent book *Copyrights and Copywrongs: The Rise of Intellectual Property and How It Threatens Creativity* (New York University Press, 2001) and is assistant professor of Culture and Communication at New York University. I talked to him this past summer. —Carrie McLaren

Stay Free!

Siva Vaidhyanathan

Copyright gives creators exclusive rights to their works; historically, at least, this was to promote growth in the arts and sciences.

In *Copyrights and Copywrongs*, you discuss how expansions in copyright law have, ironically, restricted public access to arts, ideas, and new technologies. But although you see copyright as a problem, you did make one argument for it. You said if there were no copyright laws, then authors would never write novels. They’d just write screenplays, because that’s where the money is.

What happened in 1976?

I don’t think we need copyright nihilism. What we need is a flexible, humane system, much like we had before 1976.

A couple of things. Congress decided that the term of copyright protection should not be fixed—that it should be life of the author plus 50 years. Before that 1976 law, the term of copyright was 28 years and if you cared enough you could renew it for another 28 years. That’s reasonable. Most copyrights were not renewed. When they weren’t renewed they became our property—they entered the public domain and we could use them. The 1976 law also made copyright applicable to all expressions fixed in any tangible medium. That means that every email you write is copyrighted, every scribble on paper is copyrighted. There’s no registration process. That violates the deal. The deal with copyright is that we grant a temporary monopoly in order to allow the publisher to charge monopoly prices for a limited period of time. And what we get by giving the publisher that right is access to the work. By 1976, Congress has decided that trade was irrelevant.

STAY FREE! TWENTY



BY AGREEING TO SUCH A HIGH LEVEL OF REGULATION OVER COPYING, WE'VE ALLOWED GOVERNMENT, AND, BY PROXY, CORPORATIONS, TO REGULATE WHAT WE READ AND WHAT WE SEE.

It's funny. You think of corporations as being so antiregulation, and with copyright, it's the complete opposite.

Napster really raised the awareness level, although I'm not sure that's all good. I'm on an email list with lots of teachers, and when, say, a student uses a popular song in a video they've created, some teachers will refer to that as stealing.

I think you can blame part of the problem on language. Where did the term "intellectual property" originate?

But those arguments are pretty easy to shoot down, don't you think? Because real property isn't like copyrighted material. If someone takes something from your garage, then you don't have it anymore. But if, say, a store plays your song, you don't have any less of a song.

Dr. Seuss went to court in the 1950s to stop someone from merchandising dolls based on his characters. He lost—twice—because the courts said that when he signed away the rights to publish the cartoons, he signed away all his rights. When did the law start recognizing that there were separate rights involved for merchandising and licensing?

And they agreed to that?

Before the digital world emerged, we agreed to allow the government to regulate copies, but we certainly didn't agree to allow the government to regulate reading, because reading a piece of material or listening to a song or watching a film was very different from making a copy of it. With digital works, you can't help but make a copy when you access something. To read something online is to make several copies of it. So by agreeing in 1976 to such a high level of regulation over copying, we've allowed government, and, by proxy, corporations, to regulate what we read and what we see.

Corporations are always pro regulation when it's to their benefit. Copyright law has been way below the public's radar largely because this stuff seems so complicated and so irrelevant to daily life, but I think that's changing.

But when many people say they're stealing, they're joking. They giggle when they use peer-to-peer systems to download songs...

In the late 1960s, the phrase started making its way into law school course catalogues. Within legal discourse, "property" does not mean what it means in popular discourse. So it wasn't a real problem until the phrase caught on with the public. When that happened, it allowed experts call the shots. Jack Valenti [president of the Motion Picture Association of America] will say, "This is theft, this is theft, this is theft," because we're talking about property. You could then use metaphors like "If I lock something up in my garage, you can't come in and take it." Or, "You can't break into my house to watch television."

Unfortunately, the property metaphor is addictive. Whenever we debate people who belong to the content world, we end up having to work within the metaphor. Now I tend to respond by saying, "You're not talking about real property, you're talking about a government-granted monopoly." And you have to get back to that point that copyright is not natural, it's something that we the people decided to give to a certain class of people in exchange for something. And so if we're not giving what we promised to this group of people, we need to ask whether the system is properly balanced.

I don't know when exactly, but recognizing that there is a bundle of rights is essential in protecting artists. I write a column for MSNBC, and they're notorious for taking too many rights away from writers. They sent me a contract that claimed for them all rights in all media "in perpetuity throughout the universe." I didn't like that so I changed it to "first digital rights." That means I can put anything I write for MSNBC into a book.

They agreed because it wasn't worth the fight: I'm not worth that much money to them.

A lot of companies have policies where if you don't agree, they just won't let you do it.

But what about the online "clickwrap" contracts that never give you a choice? You either click "I agree" or can't proceed. You can't alter them.

Because if you buy something and don't like it, or if it doesn't work on your machine, you can't take it back.

Yeah, but you've got to ask anyway. I mean, when my cable modem company came in to install my cable modem there was a provision in the contract that said I cannot act as a server. Well, what does that mean? That I can't have stuff available for other people to pick up? I can't devote a folder to a peer-to-peer system? So I just crossed out that section, initialed it, and signed the contract. All contracts are negotiable. But people have to recognize that they can do that. And really I think that's the source of artists getting screwed in this system. They take legal language way too seriously.

Those contracts aren't enforceable at this point. Corporations are trying to change the law state-by-state to make these clickwrap and shrinkwrap licenses enforceable. [Shrinkwrap licenses are those that consumers automatically agree to when they break the shrinkwrap on a software package.] They're trying to make it so that consumers have absolutely no rights to complain about the use of a clickwrap or shrinkwrap product. It's the biggest threat to consumer rights in thirty years, as far as I'm concerned.

Exactly. And what's happening, especially with software, is that you can't make fair use of it. If you go to the Billboard Music site, they have a special section full of research on the music industry. But to get in, you have to sign a contract saying that you won't report any of the information. You can't distribute it publicly, which for someone like me, makes it useless.

As Mr. Vaidhyathan writes, copyright was a contentious issue among the Founders, and this was reflected in the clause they placed in the U.S. Constitution:

CONGRESS SHALL HAVE POWER TO... PROMOTE THE PROGRESS OF SCIENCE AND USEFUL ARTS, BY SECURING FOR LIMITED TIMES TO AUTHORS AND INVENTORS THE EXCLUSIVE RIGHT TO THEIR RESPECTIVE WRITINGS AND DISCOVERIES.

Thomas Jefferson, George Washington, James Madison, and others were worried that offering creators "exclusive rights" would impede the growth of American arts and sciences, which thrive on the free flow of ideas and information. After much debate, it was decided that "monopolies" on creative works and technical inventions would be granted for only a limited time. Without such a guarantee, they were concerned that few people would invest resources in creating. For Jefferson et al., the end goal of copyright was to promote enlightened public discourse, not to enrich individual creators or sellers.

So, when you see those contracts, do you go ahead and just not worry about it?

Is it legal to force people to waive their free speech right? Fair use is basically a free speech issue.

Yeah, for the most part. I figure: bring it on, sue me. It would be fun to fight one of those contracts in court.

Unfortunately, the courts lately have decided that free speech doesn't matter in the face of copyright. It's one of the reasons that the Supreme Court is now considering copyright cases because it is concerned about the conflict with the First Amendment.

There are basically four democratic safeguards that the copyright system has evolved in the past 200 years. First and foremost is fair use, the idea that you can reuse without permission pieces of material for commentary, education, criticism, or other nonprofit use. Second is "first

THE DVD OF *BIRTH OF A NATION*, WHICH HAS BEEN IN THE PUBLIC DOMAIN SINCE THE 1930S, IS PROTECTED BY DIGITAL RIGHTS MANAGEMENT TECHNOLOGY SO YOU CAN'T MAKE COPIES OF IT, EVEN THOUGH IT'S IN THE PUBLIC DOMAIN.

In court decisions on copyright from as late as the 1980s, there's a ton of language about the public interest. It seems like there's been a huge change within a short period of time.

Do you think Eldred can win the Supreme Court case and repeal the Sonny Bono Act?

Let's talk about electronic gates. If someone scans a picture that's in the public domain, he can claim a copyright on it. What's the reasoning there?

Could you if you had a videotape of it?

Are they saying they've improved the quality of the original? That they've done something to make it different?

What about photographs? If a company uses a scanner to make an electronic version of an image, it gets a copyright on the electronic version. It seems like that's a great price to pay, just for scanning.

sale," the idea that the object and the copyright are two separate things so that you can sell a used book or lend a book through a library. That's a really important thing. Third is the fact that copyrights expire. And fourth is the fact that copyrights don't protect ideas, they only protect specific expressions of those ideas. What's been happening, though, in the past ten years is each of these democratic safeguards is being undermined either by technology or law. So we're reaching the point where copyright is an instrument of censorship.

Definitely. I have to blame Reagan because it's so easy to blame him. But there's a whole generation of judges who came to office in the 1980s who are fundamentalists on issues of privatization and private control, but not privacy [laughs].

Sure, anything's possible. The very fact that the Court took it, which nobody expected, means that the Court recognizes that there are some serious constitutional questions about how Congress has been behaving. I think there are arguments one could make that would appeal to just about everybody on the bench that would sway them toward declaring the current copyright term unconstitutional. One of the great things about copyright is that there is no left or right. There are copyright maximalists and there are copyright minimalists and then there are moderates, but they don't necessarily fall along the standard political lines.

If you go into a movie store right now and buy the DVD of *Birth of a Nation*, which has been in the public domain since the 1930s, you'll find that it's protected by digital rights management technology so you can't make copies of it, even though it's in the public domain. You can't make fair use of it. You can't take pieces of *Birth of a Nation* and satirize it, make fun of it, chop it up, or make a scholarly work out of it.

Yeah, but not a DVD. Basically, they have copyright protection for technological work rather than creative content.

They're not really making that sophisticated an argument. They're saying if you don't give us this ability to legally protect digital rights management technologies, we're not going to give you DVDs.

The photograph is still in the public domain if you can get a hold of it. But if it's in Bill Gates's storage vault, the only thing you can get is the digital form. So what they've done is take all of these works in the public domain, make the analog versions unavailable and then sell only the digital versions, which are then highly protected.

In the next 30 years, none of us is going to have working VCRs. The movie industry is phasing out VHS. Soon we won't have Super 8, and we certainly won't have the original celluloid version of *Birth of a Nation*—all we will have is the DVD. And that means that we no longer have it in the public domain.



What about moral rights? [Moral rights refer to the artists' right to control the fate of their works and how they're used.]

What about that Monty Python case? ABC licensed Monty Python episodes but then edited the hell out of them and ran them. So Monty Python sued and won.

So what's wrong with that?

IF COPYRIGHTS DISAPPEARED TOMORROW, THERE WOULD STILL BE POETRY BUT THERE WOULDN'T BE *STAR WARS*.

You mentioned in your book that in 1909 the law created a new definition of authorship, corporate copyright, and that was a radical change. What effect did this have?

And how did it affect the idea that copyright was an incentive to create?

And we all know dozens of people who write with little or no possibility of getting paid.

Media companies in the United States don't want moral rights; the last thing they want is to have their directors or actors to have power over what they do to those films. But, at the same time, there is strong public support of it in Europe and perhaps in the developing world too. I would love to see the entire world give up on the question of moral rights because I think the moral rights approach becomes censorious as well.

The Monty Python case is the example of moral rights creeping into American law.

I think we need to demystify the notion of creation. There's nothing magical about it and there's nothing sacred about it. This was a commercial transaction and the folks at Monty Python signed a contract with ABC and at no point (these were Oxford and Cambridge educated guys with major lawyers) did they negotiate the terms of the contract in such a way that prevented ABC from doing what it wanted to do. They should have foreseen that. After the fact, they started complaining. I think the judge made a very poor decision by backing Monty Python in that case. There's no bigger Monty Python fan in the world than me, but I don't think we should let our critical faculties get in the way of judgments about what sort of copyrights systems would be best, because the next people who try to do that are not going to be as funny or as talented as Monty Python, and they're going to have way too much control over the use and reuse of their work. There are ways to build artist protection into contracts, and I think that we need to strengthen the position of artists in the negotiating process, but moral rights is not the way to do it. The best way to do it is through collective bargaining.

Here's the interesting thing about the incentive to create. We don't actually know that copyright works as an incentive to create. We just assume it. It's not a bad assumption, but it's almost impossible to test. If the hypothesis is no one would ever write anything if there were no copyright laws, well, that's actually pretty easy to toss out with one counterexample, and the best counterexample is the Bible, which people put a lot of time into with absolutely no copyright protection. We got copyright soon after the printing press. But the world is filled with creative material that was generated before the advent of copyright. You know, Homer didn't have copyright.

Exactly. Look at the development of the internet. Most of the content on the internet was not done for profit: it was done for love. But the incentive is more defensible by saying that it's about the incentive to distribute, the incentive to market. It's easier to argue that nobody would make a full-length feature film and distribute it to hundreds of thousands of theaters throughout the country if there were no faith in the copyright system. So, if we agree that it's a good thing we have the *Godfather* and *Star Wars* in our lives, then it's probably a good thing that we have copyright protection. If copyrights disappeared tomorrow, there would still be poetry but there wouldn't be *Star Wars*.

As for the 1909 law, newspapers and magazines didn't have copyright protection. Because copyright was only something originating with the author, you couldn't copyright an entire newspaper or magazine in the name of the newspaper or magazine. Because of this, publishers lobbied for a provision that you didn't have to be an individual writer to enjoy copyright protection, that you could be a corporation. It was purely meant to deal with compilations and encyclopedias and newspapers and so forth, but you still had to file for copyright protection. Even after this passed, newspapers didn't file for copyright protection (because newspapers weren't worth anything on day two), but magazines and encyclopedias did. This little tweak of the system ended up growing into the dominant factor in American copyright. Now most works that matter are copyrighted in the name of corporations.



Owners of historic buildings and landmarks—such as the Flatiron Building ❶, the Chrysler Building, the New York Stock Exchange ❷, and the Lone Cypress in California ❸—have wielded trademark law to prevent photographers, illustrators, and designers from using images of their properties.

15

If the incentive is to market and distribute, then that makes sense.

Exactly. I don't know anyone arguing that we should move beyond that. One of the problems with moral rights is that it undermines the corporate power. All corporations aren't necessarily the bad guys in these situations. You know, if I were to write an encyclopedia article, and the publisher felt that I had done a very bad job and needed to substantially rewrite it, it would probably not be a good thing for me to have moral rights to be able to veto editorial changes, because I'm not assuming the risk—the marketing risk and the risk for libel and the risk for copyright infringement. The publisher is.

So basically you're saying that it shouldn't be problematic for a company to hack up somebody's work, but there should be other mechanisms for rebalancing the powers between them. That reminds me of your chapter on blues artists. A lot of white people made millions by appropriating the work of poor African Americans. But the blues artists were also using everybody else's work—the idea that a tune or lyric was owned by someone was antithetical to how they made music. Don't you think it's ridiculous that these guys didn't get paid at all? But you're saying the money shouldn't come through copyright. Right?

Yes. They got ripped off because they didn't have any bargaining power; the situation was totally skewed for white people. But I think it's important to consider that separately from copyright. Copyright should not be where we look to fix this problem. The business practices of labels like Chess were reprehensible. They hired people like Willie Dixon and paid them hourly to produce this incredible music. They got Willie Dixon to produce a lot of his songs as works for hire, which is one of the things that emerged from that 1909 change in corporate copyright. So they controlled all the rights to this stuff and Dixon got pennies. Ron Howard has the same labor arrangements with the companies that distribute his films as Willie Dixon had with Chess. The difference is that Ron Howard has negotiating power. Chess took advantage of Willie Dixon because he was black, because he was poor and uneducated. But he wasn't uneducated for long. He ended up learning all about copyright law, taking control of his career, and his later works were all copyrighted in his own name, which is why he then had power in the marketplace. But it wasn't just black artists that got screwed by record companies. It's just that there have been a handful of folks who've gotten lucky—the Elvises and



THE COMMON LAW IS BASED ON HABITS, SO IF THE HABIT IN THE INDUSTRY AND IN THE CULTURE IS TO CLEAR EVERYTHING, THEN JUDGES WILL GO ALONG WITH THAT.

16

What did you think of that Vanilla Ice case?

Or if, say, MC Hammer hadn't worked with Rick James on "U Can't Touch This."

Film director Davis Guggenheim has said that, 10 years ago, if a copyrighted work—say, a poster or a concert T-shirt—appeared in a film and was recognized by the common person, the filmmaker would have to get it cleared. Whereas today, if something appears in a film and it's recognized by anybody, then it has to be cleared. How did this come to pass, and what's the logic behind it?

Well, in the 1980s, Coca-Cola owned Columbia pictures. And Columbia used to make movies that associated Coca-Cola products with good things and Pepsi with bad things. They couldn't do that now.

But you have to get products cleared in the same way you would artwork.

Unless you want to use the product in a negative light.

the Madonnas—and they've been able to then bargain from a position of strength so that Elvis's RCA contract was a hell of a lot better than the exploitative contract he had with Sun. Madonna's contract with Time Warner, the second contract of her career, basically gave her complete control over her creative life. There just aren't that many artists who get to that bargaining position. But, yes, Madonna is going to take pieces from the well of gay culture and move them into her own work and make a lot of money off of it, whereas the people who invented voguing don't make a dime. And Elvis is going to make a lot more off of R&B than Big Mama Thornton or Son House, but that doesn't mean we want copyright law to prevent either Madonna or Elvis from doing what they do. I think we just need to be able to recognize the roots of this creativity, and if we feel like it, reward the people who were doing it before them. People will say, "Wow, if Keith Richards really likes Muddy Waters and they named the Rolling Stones after a Muddy Waters song, maybe I should listen to Muddy Waters." The system is not a zero sum system by any means.

Vanilla Ice ended up paying royalties to Bowie and Queen . . .

On both of those songs, the sampled work was so extensive that it didn't really work the way most sampling works. I think that would be an interesting case to decide whether that was fair use or not, and I would have liked courts to have actually considered the nuances of those situations. I tend to think that artists should be able to borrow freely from their predecessors. If anything, Hammer helped revive Rick James sales. People said, "Wow, I really like that Rick James song." So how much was Rick James harmed by that if Hammer hadn't cleared it? I don't know. But that's the sort of question that a court should have been able to answer. But it never really got to that point because the law basically shut down all sampling without permission, and I think that was a big mistake.

I don't know if that 10-year assessment is correct, but copyright holders have become more vigilant, so judges have reacted on their behalf. The common law is based on habits, and so, if the habit in the industry and in the culture is to clear everything, then judges will go along with that. There's no wall that stops them from maximizing this practice.

Well, when you're dealing with commercial speech and product placement, that's a whole different set of questions.

Yes. Of course, with commercial products, you'd rather have the companies pay you. The money flows the other way in that case.

Let's say you're making a film about McDonald's misdeeds around the world. You could certainly use the images of McDonald's because you



COMPANIES WITH BIG  
MEGAPHONES ARE ALWAYS  
GOING TO HAVE MORE  
POWER. COPYRIGHT IS NOT  
THE RIGHT TOOL TO ALTER  
THAT FORMULA.

Wasn't the artwork in *Devil's Advocate* a religious piece? The sculptor converted to Catholicism while making it, and it was used in some sort of satanic, sexual way.

Because Europe has "moral rights." I'm going to play devil's advocate here—har, har. My friend Jem was telling me about an influential book by photographer Robert Frank, *The Americans*. It was pretty radical at the time—1959—because the photos were of common people and portrayed America as a sort of grim, alienating place. Well, Don Henley took some of Frank's photos and made them seem to come to life in one of his videos; but instead of sharing Frank's ambiguous tone, Henley turned them into a real celebration of America. There was no direct reference to Frank, though, nothing to indicate that the scenes were borrowed. So then everyone sees Don Henley's video on MTV, but no one sees Frank's photographs. In this instance, don't weak copyright laws—which is what you are arguing for—give more power to companies and reduce the power of the artist?

So you're saying that if copyright had prevented Henley from appropriating Frank's photos, then it would also prevent someone from appropriating or criticizing Henley's video. But would you distinguish between commercial speech and non commercial speech in this case?

have a fair use right to do that; you're commenting on it. McDonald's would still sue you—and they'd probably sue you for libel in England, where they might actually win. What we're dealing with in most of these cases is the "found art" around us—the signs and symbols we live with all the time. You look around your room, and there are very few things within your field of vision that don't carry some sort of intellectual property protection, either trademark or copyright. And, for that reason, it's very hard to try to represent reality in any way.

In the movie *12 Monkeys*, there was a chair that wasn't recognizable by laypeople, but the guy who designed it recognized it and got an injunction on the release of the film. This is the sort of excessive level of protection that can only be considered extortion. I mean this guy was not going to make more or less money because the chair happened to be in the movie scene. But he shut down the release of a major studio motion picture to shake them down for money. If the level of protection is going to be that high, then there will be a lot of problems for artists. The same thing happened with a piece of artwork used in the movie *Devil's Advocate*. The question we should be asking is whether we want to have the sort of culture that is so allergic to using the found symbols around us.

That may be true, but that is irrelevant to a copyright claim. The nature of the work doesn't matter. The rights of the artist in terms of reasonable representation of his or her thoughts—those don't matter in the United States. They matter in Europe.

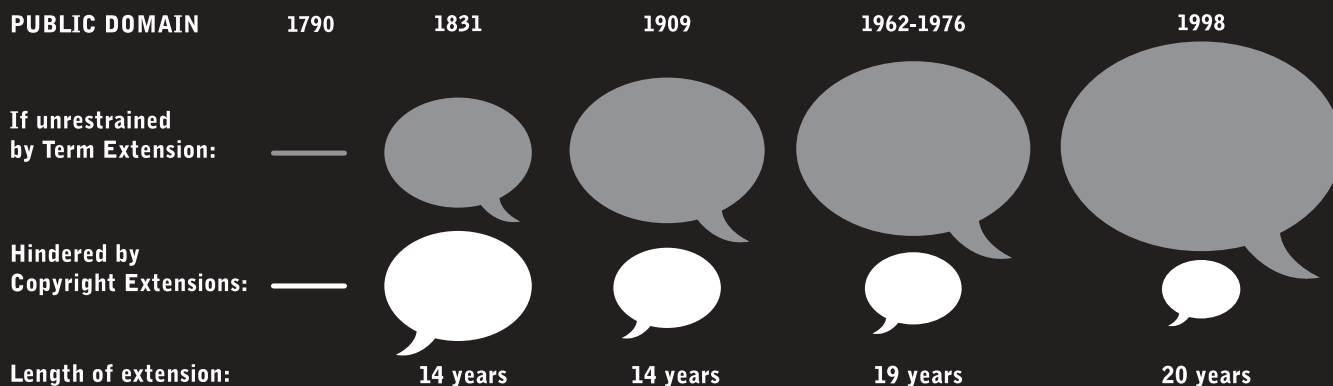
Companies with big megaphones are always going to have more power. Copyright is not the right tool to alter that formula. Basically, Don Henley built on the work of a previous artist—altered, commented, and perhaps changed the meaning, but that's what critics do. That's what Alice Randall, the author of *The Wind Done Gone*, did to Margaret Mitchell's *Gone with the Wind*. Whether one party has more cultural power or more financial backing is not something the law should be concerned with. The law should never work to lock in the previously conceived work and stifle the production of the second work. Now, all too often we've seen the second taker [Don Henley, in this case] make quite a bit more money than the first artist, but those are the breaks. We saw Elvis make more money than Big Mama Thornton. I mean, there are a lot of complicated reasons for that, but I don't think anyone should argue that Elvis should have been prevented from building on the work of rhythm-and-blues producers, especially since the next generation of creators, including Jimi Hendrix, could build on the work of Elvis. Nothing prevents you from building on the work of Elvis—except that now the Elvis estate has such high levels of protection over all of its signs and symbols.

Not really.



You could say Don Henley could use Frank's photos but not for profit.

But what is for profit? If you're putting a video on MTV, in a way it's an advertisement, but in a way it's a product in itself. Music videos are an art. When you're dealing with cultural products, the line between commercial and noncommercial speech is almost indistinguishable. What about Frank's book? That was being sold for a profit.



Yeah, yeah, I see your point. But let's try another example. Nike uses a significant part of a song by punk rockers Le Tigre in a commercial. In your ideal world, would they be allowed to do that?

Well, that is clearly an advertisement. I take it back. Sometimes the line is clear between commercial and noncommercial use of artwork, and when that line is clear, different rules apply. The important question here is the implied endorsement of the product. Certainly no artist should be forced into giving the impression of an endorsement where none exists. In addition, artists should expect to receive reasonable compensation for the use of substantial portions of their work in commercial settings. So Nike should do what it does—ask permission and pay substantially for the rights to a song. But my point is that the copyright holder is rarely the artist herself. Therefore we should not romanticize copyright as an author's right. It starts out that way, but that's not the whole story.

Incidental music can't be played in a movie. What are the music owners' arguments to prevent this?

They want the ability to license music for specific places. If you were allowed to use music incidentally in films, then there would be no market for licensing. You couldn't get Bette Midler singing the theme from *Beaches* as an exclusive product because Bette Midler's song could be in any movie.

I think courts should be sensitive to the difference between documentaries and produced films. Music is around us all the time, so what are documentaries supposed to do?

Do you know of any filmmaker or artist groups fighting this?

No. I know that journalists are very concerned, though. Journalists are supposed to be able to take a snapshot or pan a particular scene to cover the news. If you went right now with a video camera and scanned Times Square, you would pick up CBS logos and NBC logos because they both have big billboards in Times Square. But a few years ago, CBS video-taped Times Square and digitally replaced NBC's logo with its own. When broadcasters start subbing in logos, perhaps they jeopardize their right to use incidental material.

## WHY YOU SHOULD KNOW ABOUT THE DIGITAL MILLENNIUM COPYRIGHT ACT

## THE DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA), passed by the U.S. Congress in 1998, makes

it a crime to break the encryption on electronic products such as DVDs. The reasoning behind the law goes like this: If stealing a car is illegal, then using or selling a device that allows people to steal cars should also be illegal. Likewise, if a computer code allows you to make unauthorized use of, say, a DVD or website, then it, too, should be illegal.

The trouble is that we're not talking about a special piece of equipment designed exclusively for stealing cars. What the DMCA actually does is akin to banning pliers—a tool that can be used to steal cars, but one that has a lot of perfectly legal uses as well.

For example, DVD players sold in the U.S. are encrypted to prevent users from making (and selling) videotapes. If I want to take a few of my DVDs, tape various 15-second scenes, and splice them together to teach my 12th graders about film editing, I can't do that without somehow breaking the encryption (or buying an off-market machine with the encryption disabled). Using content like this, for the purpose of education or criticism, is legally appropriate according to the standards of fair use. But because it requires breaking encryption, this sort of quotation is now illegal. And because companies are using encryption more and more in new technologies, the DMCA puts fair use itself in jeopardy. —CM

For more information, see [www.anti-dmca.org](http://www.anti-dmca.org).

## SIVA VAIDHYANATHAN explains:

Let's pretend that a magazine has just published your harshly negative review of a book. In this review, you quote short passages from the book, confident that the long-accepted concept of fair use enables you to do so.

But a week or so after the electronic version of the review appears on the publication's website, the editors inform you that it violates the 1998 Digital Millennium Copyright Act (DMCA), and that they are removing it. You are welcome to respond. You are free to argue that the use of the copyrighted quotes falls under fair use. But the publication is under no obligation to accept your defense. So you publish the review on your own webpage. But you soon discover that all the major web search engines have removed your site from their indexes.

That couldn't happen, you say? Welcome to the new millennium. 1998, when Congress brought copyright law into the digital era, some of us were initially heartened by what we saw as compromises that, we hoped, would protect fair use for digital materials. Unfortunately, we were wrong. Recent actions by Congress and the federal courts—and many more all-too-common acts of cowardice by publishers, colleges, developers of search engines, and other concerned parties—have demonstrated that fair use, while not quite dead, is dying. And everyone who reads, writes, sings, does research, or teaches should be up in arms. The real question is why so few people are complaining.

Consider the recent case of the Church of Scientology International and the search engine Google. The wealthy church used the threat of a well-financed lawsuit—and the DMCA's provision that a service provider will not be liable for infringement if it moves with "dispatch" to delete offending material—to persuade Google to block links to several sites that included criticism of Scientology and quotes from its literature. "Had we not removed these URLs, we would be subject to a claim for copyright infringement, regardless of its merits," Google said.

Back in the 20th century, if someone had accused you of copyright infringement, you enjoyed that quaint and now seemingly archaic guarantee of due process. Today, due process is a lot harder to pursue, and the burden of proof increasingly is on those accused of copyright infringement. For the copyright act, in essence, makes the owner of every internet service provider, content host, and search engine an untrained copyright cop. The default action is censorship.

The conflict between the Church of Scientology and Google is one of many such cases. In July 1999, shortly before *Talk* magazine made its debut, writers John Aboud and Michael Colton posted an online parody of the magazine. Until it folded, *Talk* was produced by a partnership between Hearst Magazines and Miramax Films. Miramax lawyers sent a cease-and-desist letter to Earthlink, the internet company that owned the server on which the parody sat. Earthlink immediately shut down the parody, although it restored the site after *Talk's* editor, Tina Brown, appealed to let it stand. Lawyers for both Miramax and the Church of Scientology cited the DMCA as the basis for their claim.

Besides prompting such censorship, the act has another major provision, which upends more than 200 years of copyright law that has, until now, served democracy well: the principle that whatever copyright law does not specifically protect remains available to all to use, for whatever purpose the user sees fit. The DMCA bars the circumvention of electronic access controls, a provision that seems to block the use of even those portions of works that might be in the public domain.

How direct the assault on artistic and academic freedom could become was demonstrated in spring 2001, when the music industry tried to prevent a computer scientist, Princeton University's Edward W. Felten, from presenting a scholarly paper at a conference. The Recording Industry Association of America argued that the paper dealt with encryption algorithms that it hoped to use to protect digital content and thus violated the copyright law. The association backed down, but the Felten case is merely the best-known of several efforts that online-content industries have made to prevent researchers from discussing certain technologies and algorithms.

Since 1998, the DMCA has revealed itself to be a failure. It has not been effective at preventing piracy in cyberspace, yet it has managed to stifle harmless and even beneficial uses of material for research, teaching, and the arts.

# How copyright law changed hip-hop

an interview with Public Enemy's  
Chuck D and Hank Shocklee

Kembrew McLeod



When Public Enemy released *It Takes a Nation of Millions to Hold Us Back*, in 1988, it was as if the album had landed from another planet. Nothing sounded like it at the time. *It Takes a Nation* came frontloaded with sirens, squeals, and squawks that augmented the chaotic, collaged backing tracks over which P.E. frontman Chuck D laid his politically and poetically radical rhymes. He rapped about white supremacy, capitalism, the music industry, black nationalism, and—in the case of “Caught, Can I Get a Witness?”—digital sampling: “CAUGHT, NOW IN COURT ‘CAUSE I STOLE A BEAT / THIS IS A SAMPLING SPORT / MAIL FROM THE COURTS AND JAIL / CLAIMS I STOLE THE BEATS THAT I RAIL . . . I FOUND THIS MINERAL THAT I CALL A BEAT / I PAID ZERO.”



In the mid- to late 1980s, hip-hop artists had a very small window of opportunity to run wild with the newly emerging sampling technologies before the record labels and lawyers started paying attention. No one took advantage of these technologies more effectively than Public Enemy, who put hundreds of sampled aural fragments into *It Takes a Nation* and stirred them up to create a new, radical sound that changed the way we hear music. But by 1991, no one paid zero for the records they sampled without getting sued. They had to pay a lot.

Stay Free! talked to the two major architects of P.E.'s sound, Chuck D and Hank Shocklee, about hip-hop, sampling, and how copyright law altered the way P.E. and other hip-hop artists made their music.

The following is a combination of two interviews conducted separately with Chuck D and Hank Shocklee.

## What are the origins of sampling in hip-hop?

Chuck D — Sampling basically comes from the fact that rap music is not music. It's rap over music. So vocals were used over records in the very beginning stages of hip-hop in the '70s to the early '80s. In the late 1980s, rappers were recording over live bands who were basically emulating the sounds off of the records. Eventually, you had synthesizers and samplers, which would take sounds that would then get arranged or looped, so rappers can still do their thing over it. The arrangement of sounds taken from recordings came around 1984 to 1989.

## Those synthesizers and samplers were expensive back then, especially in 1984. How did hip-hop artists get them if they didn't have a lot of money?

Chuck D — Not only were they expensive, but they were limited in what they could do—they could only sample two seconds at a time. But people were able to get a hold of equipment by renting time out in studios.

**How did the Bomb Squad [Public Enemy's production team, led by Shocklee] use samplers and other recording technologies to put together a track on It Takes a Nation of Millions?**

Hank Shocklee ————— The first thing we would do is the beat, the skeleton of the track. The beat would actually have bits and pieces of samples already in it, but it would only be rhythm sections. Chuck would start writing and trying different ideas to see what worked. Once he got an idea, we would look at it and see where the track was going. Then we would just start adding on whatever it needed, depending on the lyrics. I kind of architected the whole idea. The sound has a look to me, and Public Enemy was all about having a sound that had its own distinct vision. We didn't want to use anything we considered traditional R&B stuff—bass lines and melodies and chord structures and things of that nature.

**How did Public Enemy use samplers as instruments?**

Chuck D ————— We thought sampling was just another way of arranging sounds. Just like a musician would take the sounds off of an instrument and arrange them their own particular way. So we thought we was quite crafty with it.

Hank Shocklee ————— “Don't Believe the Hype,” for example—that was basically played with the turntable and transformed and then sampled. Some of the manipulation we was doing was more on the turntable, live end of it.

**When you were sampling from many different sources during the making of It Takes a Nation, were you at all worried about copyright clearance?**

Hank Shocklee ————— No. Nobody did. At the time, it wasn't even an issue. The only time copyright was an issue was if you actually took the entire rhythm of a song, as in looping, which a lot of people are doing today. You're going to take a track, loop the entire thing, and then that becomes the basic track for the song. They just paperclip a back-beat to it. But we were taking a horn hit here, a guitar riff there, we might take a little speech, a kicking snare from somewhere else. It was all bits and pieces.

**Did you have to license the samples in It Takes a Nation of Millions before it was released?**

Hank Shocklee ————— No, it was cleared afterwards. A lot of stuff was cleared afterwards. Back in the day, things was different. The copyright laws didn't really extend into sampling until the hip-hop artists started getting sued. As a matter of fact, copyright didn't start catching up with us until Fear of a Black Planet. That's when the copyrights and everything started becoming stricter because you had a lot of groups doing it and people were taking whole songs. It got so widespread that the record companies started policing the releases before they got out.

**With its hundreds of samples, is it possible to make a record like It Takes a Nation of Millions today? Would it be possible to clear every sample?**

Hank Shocklee ————— It wouldn't be impossible. It would just be very, very costly. The first thing that was starting to happen by the late 1980s was that the people were doing buyouts. You could have a buyout—meaning you could purchase the rights to sample a sound—for around \$1,500. Then it started creeping up to \$3,000, \$3,500, \$5,000, \$7,500. Then they threw in this thing called rollover rates. If your rollover rate is every 100,000 units, then for every 100,000 units you sell, you have to pay an additional \$7,500. A record that sells two million copies would kick that cost up twenty times. Now you're looking at one song costing you more than half of what you would make on your album.



Chuck D ————— The corporations found that hip-hop music was viable. It sold albums, which was the bread and butter of corporations. Since the corporations owned all the sounds, their lawyers began to search out people who illegally infringed upon their records. All the rap artists were on the big six record companies, so you might have some lawyers from Sony looking at some lawyers from BMG and some lawyers from BMG saying, "Your artist is doing this," so it was a tit for tat that usually made money for the lawyers, garnering money for the company. Very little went to the original artist or the publishing company.

Hank Shocklee ————— By 1990, all the publishers and their lawyers started making moves. One big one was Bridgeport, the publishing house that owns all the George Clinton stuff. Once all the little guys started realizing you can get paid from rappers if they use your sample, it prompted the record companies to start investigating because now the people that they publish are getting paid.

**There's a noticeable difference in Public Enemy's sound between 1988 and 1991. Did this have to do with the lawsuits and enforcement of copyright laws at the turn of the decade?**

Chuck D ————— Public Enemy's music was affected more than anybody's because we were taking thousands of sounds. If you separated the sounds, they wouldn't have been anything—they were unrecognizable. The sounds were all collaged together to make a sonic wall. Public Enemy was affected because it is too expensive to defend against a claim. So we had to change our whole style, the style of *It Takes a Nation* and *Fear of a Black Planet*, by 1991.

Hank Shocklee ————— We were forced to start using different organic instruments, but you can't really get the right kind of compression that way. A guitar sampled off a record is going to hit differently than a guitar sampled in the studio. The guitar that's sampled off a record is going to have all the compression that they put on the recording, the equalization. It's going to hit the tape harder. It's going to slap at you. Something that's organic is almost going to have a powder effect. It hits more like a pillow than a piece of wood. So those things change your mood, the feeling you can get off of a record. If you notice that by the early 1990s, the sound has gotten a lot softer.

Chuck D ————— Copyright laws pretty much led people like Dr. Dre to replay the sounds that were on records, then sample musicians imitating those records. That way you could get by the master clearance, but you still had to pay a publishing note.

Hank Shocklee ————— See, there's two different copyrights: publishing and master recording. The publishing copyright is of the written music, the song structure. And the master recording is the song as it is played on a particular recording. Sampling violates both of these copyrights. Whereas if I record my own version of someone else's song, I only have to pay the publishing copyright. When you violate the master recording, the money just goes to the record company.

Chuck D ————— Putting a hundred small fragments into a song meant that you had a hundred different people to answer to. Whereas someone like EPMD might have taken an entire loop and stuck with it, which meant that they only had to pay one artist.

**So is that one reason why a lot of popular hip-hop songs today just use one hook, one primary sample, instead of a collage of different sounds?**

Chuck D ————— Exactly. There's only one person to answer to. Dr. Dre changed things when he did *The Chronic* and took something like Leon Haywood's "I Want'a Do Something Freaky to You" and revamped it in his own way but basically kept the rhythm and instrumental hook intact. It's easier to sample a groove than it is to create a whole new collage. That entire collage element is out the window.

Hank Shocklee ————— We're not really privy to all the laws and everything that the record company creates within the company. From our standpoint, it was looking like the record company was spying on us, so to speak.

Chuck D ————— The lawyers didn't seem to differentiate between the craftiness of it and what was blatantly taken.

**Switching from the past to the present, on the new Public Enemy album, Revolverlution, you had fans remix a few old Public Enemy tracks. How did you get this idea?**

Chuck D ————— We have a powerful online community through Rapstation.com, PublicEnemy.com, Slamjams.com, and Bringthenoise.com. My thing was just looking at the community and being able to say, "Can we actually make them involved in the creative process?" Why not see if we can connect all these bedroom and basement studios, and the ocean of producers, and expand the Bomb Squad to a worldwide concept?

**As you probably know, some music fans are now sampling and mashing together two or more songs and trading the results online. There's one track by Evolution Control Committee that uses a Herb Alpert instrumental as the backing track for your "By the Time I Get to Arizona." It sounds like you're rapping over a Herb Alpert and the Tijuana Brass song. How do you feel about other people remixing your tracks without permission?**

Chuck D ————— I think my feelings are obvious. I think it's great.

## [ LITERATURE ]

### The Other Side of the Story

The courts have heard many a copy-right case involving borrowing from works of art or music, but such a strong legal precedent does not exist for literature. Our research turned up only two spin-off novels—*The Wind Done Gone* after *Gone with the Wind* and *Lo's Diary* after *Lolita*—that have incurred lawsuits. *The Wind Done Gone* gives us the perspective of Scarlett O'Hara's half-sister who is also a slave (although she doesn't appear in *Gone with the Wind*); *Lo's Diary* presents the inner world of the

love object in *Lolita*. Because both cases were settled out of court, we never found out where the law stands: Did these authors steal from the original books, or did they create transformative works that deserve to be published and sold?

So I will be the judge. Although I have no legal training, I read novels, and my favorite pairing of all time is *Jane Eyre* by Charlotte Brontë and a book it inspired, *Wide Sargasso Sea* by Jean Rhys. *Jane Eyre* (1847) is written entirely in the voice of Jane, a clever, passionate, and somewhat churchy governess in England, while *Wide Sargasso Sea* (1966) is told mostly by Bertha, the Creole wife of Jane's love (and boss), Rochester. In

*Jane Eyre*, Rochester keeps Bertha locked in his attic because he thinks she's insane; *Wide Sargasso Sea* begins in the West Indies where Bertha, then of sounder mind, meets and marries him.

Jean Rhys was not trying to imitate Brontë or otherwise rip her off. Rather, Rhys was so taken by *Jane Eyre* that she spent nine years filling in one of its gaps, in her own style. Great stories yield more stories—characters slip into the reader's brain and do all sorts of things that the author never intended. If a writer really wants to own a story the way you own a car, she or he is better off never telling it at all.

—Alexandra Ringe



### The Residents MEET THE RESIDENTS LP COVER, 1974

In 1974, a mysterious band called the Residents released its first full-length LP with a cover that parodied *Meet the Beatles*. When rumors circulated that Capitol, the Beatles' record label, was threatening to sue, the band decided to repress the LP with new artwork. The original artwork was restored, however, when ESP released a CD version of *Meet the Residents* in 1997.



STAY FREE! TWENTY

## ILLEGAL ART

Published by Stay Free!  
390 Butler Street, #3  
Brooklyn, NY 11217

A few rights reserved.

This book is protected by U.S. copyright law and a group of big, scary goons who will happily beat you until you're ejecting teeth like a winning slot machine. Use of any trademark does not give you any rights of ownership in that trademark, jackass.

ISBN: 74470 90937  
Library of Congress Catalog  
Card Number: 36-24-36

# ILLEGAL ART

*Stay Free!* has put together an extravaganza of art that uses copyrighted or trademarked material without permission. You can find the paintings, drawings, and prints on the next few pages in full color at [www.illegal-art.org](http://www.illegal-art.org), where you can also download the films and videos.

## [EXHIBITIONS]

If you live in New York City or Chicago, you can see the visual art firsthand:

### NEW YORK

CBGB's 313 Gallery  
313 Bowery (between  
E. 1st St. and Bond)  
Nov. 13–Dec. 6, 2002

### CHICAGO

IN THESE TIMES building  
2040 N. Milwaukee (between  
N. Campbell & N. Maplewood)  
Jan. 25–Feb. 21, 2003

## [ART]



Diana Thorneycroft  
**BARNEY, GOOFY, MICKEY, BERT**  
GRAPHITE ON PAPER, 2001–2002



These drawings were scheduled to appear in *Foul Play*, an exhibition by Thorneycroft and Michael Boss to be held in Winnipeg, Manitoba. But when Thorneycroft and Boss were in discussions with Gallery 1C03, a lawyer advised the gallery that it would be liable for copyright

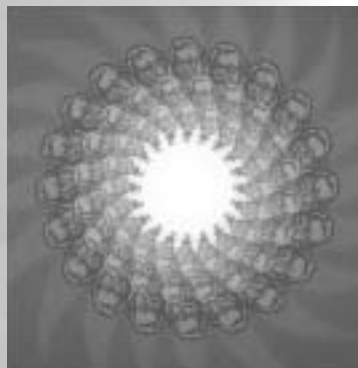
infringement. (In Canada, copyright law is even more restrictive than it is in the United States. "Fair play," which is the Canadian equivalent of fair use, doesn't allow for parody.) According to Thorneycroft, the works from *Foul Play* reflect the hypocritical way that society ignores the violence that is often at the heart of child's play. She and Boss ultimately exhibited *Foul Play* at Winnipeg's Site gallery. But for fear of legal problems, Thorneycroft removed these drawings of well-known cartoon characters from the show.

25

Tom Forsythe  
**FOOD CHAIN BARBIE**  
PHOTOGRAPHS, 1999

In 1999, Forsythe received a complaint from Mattel, claiming that a series of images he posted on the web infringed on its Barbie copyright and trademark. Although Forsythe was not making money from the works, he decided to fight the case, obtaining legal aid via the ACLU. In August 2001, a federal court ruled on behalf of Forsythe; Mattel announced plans to appeal, with a decision expected sometime after May 2003.

STAY FREE! TWENTY



Aric Obrosey  
**THE SYMBOLIC LOTUS OF A THOUSAND COLONELS**  
OIL AND LINEN, 1987

Obrosey has created a series of paintings that appropriate mandala-like forms. (Mandalas are visual tools used in Eastern meditation.) He writes: "A requirement of Buddhism is the total extinction of desire. The goal of advertising is to create desire. 'Symbolic Lotus of a Thousand Colonels' brings this duality together—two for the price of oneness."



**Noel Tolentino**  
**BUNNYHOP**  
**MAGAZINE**  
GRAPHIC, 1995

When Noel Tolentino finished the first issue of his zine *Bunnyhop*, he sent a copy to *Simpsons* creator Matt Groening, along with a gushing fan letter. For the magazine's cover, Tolentino had used Binky from

Groening's *Life in Hell* comic, and he assumed his hero would appreciate the homage. Shortly thereafter, Tolentino and copublisher Seth Robson received a cease-and-desist letter from Groening's lawyers. Lacking the resources to fight, the *Bunnyhop* publishers were forced to destroy the covers on all remaining copies. Although Groening personally apologized to Tolentino for the suit, he later defended his actions in a *Mother Jones* interview (May 1999), saying, "If I don't vigorously pursue my copyright, then other people can steal it." Groening did not comment on *The Simpsons*' habit of parodying everything from *A Clockwork Orange* to *The Cosby Show*.

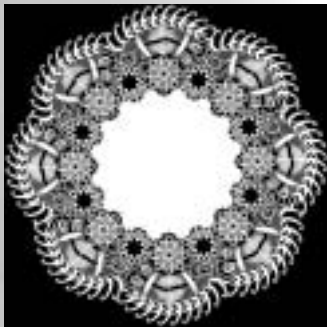


**Dyke Action Machine**  
**"GAP" CAMPAIGN**

XEROX POSTERS, 1991

**LESBIAN AMERICANS:**  
**DON'T SELL OUT!**

FOUR-COLOR OFFSET POSTER, 1998



**Aric Obrose**  
**FAST FOOD DOILY**

PRINT OF ORIGINAL CUT WHITE  
STONEHENGE PAPER, 1991

This piece was inspired by the mass-produced paper doilies underneath revolving cakes and pies in coffee shops. Using logos and trademarks from fast food franchises, Obrose designed this piece to appear, at first glance, to be a decorative memento from the past. Like much of his work, the doily represents what Obrose calls a "lost economy wherein there was time to create objects one by one, by hand."



IMAGE COURTESY OF THE ARTIST AND  
CATHARINE CLARK GALLERY, SAN FRANCISCO, CA.



**Natalka Husar**  
**LIBRARY**  
OIL ON  
BOOK COVERS,  
1999–2001

Taken from the exhibition *Blond with Dark Roots*, this 16-part series uses the format of 1950s and '60s romance novels to present the experiences of a young Ukrainian immigrant. To create these

images, Husar bought romance novels at thrift stores, removed their covers, left the title of each book intact, changed the publisher's logo to "A Husar Romance," and painted over the rest of each cover with her own image. In May 2002, Husar received a letter from Harlequin Enterprises Ltd., accusing her of violating the moral rights of its authors, artists, and editors. The company is demanding that Husar either alter the existing paintings or stop including them in exhibitions. Husar has hired a lawyer and plans to fight the publisher's "absurd" accusations. We will post updates on our website ([www.illegal-art.org](http://www.illegal-art.org)) as the battle progresses.



STAY FREE! TWENTY



Founded in 1991 by Sue Schaffner and Carrie Moyer, DAM is a public art collaboration that critiques mainstream culture by inserting lesbian images into a recognizable commercial context. Every year, DAM produces a 5,000-piece poster campaign, wheat pasting its work next to outdoor advertisements in New York City. "Lesbian Americans: Don't Sell Out!" combines the earnest tone and formal elements of 1940s war posters with the opportunistic patriotism of such marketers as Tommy Hilfiger and Ralph Lauren.  
www.dykeactionmachine.com



**Kieron Dwyer**  
**CONSUMER WHORE**  
GRAPHIC, 1999

In 2000, a year after Kieron Dwyer made comic books, t-shirts, and stickers with his version of the Starbucks logo, the company sued him, obtaining an injunction that prevented Dwyer from using the parody until the case was scheduled to go to court over a year later. When the case was finally settled, Dwyer was allowed to continue displaying his logo but only in extremely limited circumstances: no more comic books, t-shirts, or stickers. He may post the image on the web but not on his own website—nor may he link from his website to any other sites that show the parody. In short, Dwyer is permitted to use the logo as long as Starbucks can be confident that no one will see it.

**Ray Beldner**  
**HOW MAO**

SEWN U.S. CURRENCY, 2002

*Mao* is one of a series of twentieth-century masterpieces that Beldner recreated using U.S. currency. Although Beldner has not been sued, he has been threatened by artists' estates for appropriating their work, most notably Pablo Picasso's. This particular piece is based on an Andy Warhol silk screen.  
www.raybeldner.com



**Kembrew McLeod**  
**FREEDOM OF EXPRESSION**  
CONCEPTUAL WORK, 1998

In 1998, Kembrew McLeod trademarked the phrase "Freedom of Expression" and created a zine with that title. He enlisted a friend,

Brendan Love, to pose as the publisher of an imaginary punk rock magazine also called *Freedom of Expression*, whom he then pretended to sue. McLeod hired a lawyer and didn't let her in on the hoax. The lawyer sent a cease-and-desist letter to Love. Shortly thereafter, the *Daily Hampshire Gazette* ran an interview with McLeod. He played it straight, telling the paper, "I didn't go to the trouble, the expense and the time of trademarking *Freedom of Expression* just to have someone else come along and think they can use it whenever they want." Two years later, when McLeod asked to reprint the *Gazette* article in his book *Owning Culture*, the paper denied him permission.

27

**Heidi Cody**  
**American Alphabet**  
INSTALLATION, 2000

Brooklyn-based artist Heidi Cody frequently uses consumer products, packaging, and logos in her work. The letters shown here are part of *American Alphabet*, all 26 letters of which she took from corporate logos. So far Cody has not had any legal troubles. Ad agencies have even purchased parts of the *Alphabet*.

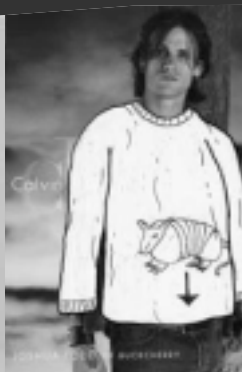


"Put the car in park Jeffy. If you back up you'll just hit PJ again."

**Brian Boling et al.**  
**DYSFUNCTIONAL FAMILY CIRCUS**  
CUT-AND-PASTE ZINE, CIRCA 1992

For Christmas one year, Boling doctored 100 of Bill Keane's

*Family Circus* panels, compiled them into a zine—*Dysfunctional Family Circus*—and gave copies to high school friends. Little did he know that he had tapped into the zeitgeist. A zine with the same title had made its debut a decade earlier. And in the mid-1990s, a man began posting Bill Keane panels online and asking web users to submit their own captions. After five years of operating worry-free, the site received a cease-and-desist order from *Family Circus'* publisher, King Comics Syndicate. (The editor considered fighting, but after having a heart-to-heart with Keane himself, he decided to close the site.) To this day, you can still find examples of *Family Circus* parodies all over the web.



**Andrew Jeffrey Wright  
and Clare Rojas**

**MISC. "THE MANIPULATORS"**  
CORRECTION FLUID AND SHARPIE  
ON PRINT ADVERTISEMENTS



Wright and Rojas, who live in Philadelphia, have been drawing, painting, and screenprinting together since 1996. Their "Manipulators" work includes posters, postcards, a pocket-sized zine of doctored advertisements, and an animated film short.

**Wally Wood**  
**DISNEYLAND MEMORIAL ORGY**  
POSTER, 1967



**Negativland**  
**U2**

12-INCH/CD COVER,  
1991

In 1991 Negativland released the single "U2," which contains two unauthorized "found sound" parodies of U2's "I Still Haven't Found What I'm Looking For." The single features a 35-second sample of U2's recording, outtakes from Top 40 DJ Casey Kasem's radio show, and a cover design that, at first glance, appears to be a new U2 release. Island Records, U2's label, immediately sued the single out of existence for trademark and copyright infringement.

In 1992, Negativland's magazine-plus-CD *The Letter U and the Numeral 2*, was also sued out of existence for relating the story of the first lawsuit. The band had better luck in 1995, when it released *Fair Use: The Story of the Letter U and the Numeral 2*, a 270-page book-plus-CD that tells the story of both lawsuits and the fight to make new art out of corporate-"owned" culture. In 2001, on the 10th anniversary of the first lawsuit, Negativland issued an expanded illegal bootleg CD called "These Guys Are from England and Who Gives a Shit." It has not (yet) been sued out of existence.

[www.negativland.com](http://www.negativland.com)



**various artists**

MISCELLANEOUS CSS INSPIRED  
WORKS, CIRCA 2000

Under the 1998 Digital Millennium Copyright Act (DMCA), breaking the encryption on any software program is a federal crime. In 1999, the hacker magazine *2600* posted DeCSS on its website, 2600.com; this code, which breaks the encryption

## [ FILM & VIDEO ]

### NEW YORK

Anthology Film Archives  
32 Second Avenue at E. 2nd St.  
Nov. 14-17, 200

### ON LINE

[www.illegal-art.org](http://www.illegal-art.org)



**Brian Boyce**

**STATE OF THE UNION**

COLOR VIDEO, 2001, 2 MIN.

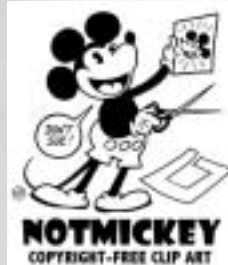
San Francisco-based artist Brian Boyce combines unauthorized CNN footage of George W. Bush with clips from *The Teletubbies*, also used without permission.



**STAY FREE! TWENTY**



One of the original *Mad Magazine* illustrators, Wally Wood published the poster (left) in the *Realist*, an underground newsletter, in 1967. An inside source at Disney told *Realist* editor Paul Krassner that the company chose not to sue to avoid drawing attention to what could ultimately be a losing battle. However, Disney was not so reluctant when an entrepreneur pirated the drawing and sold it as a black light poster. The blatantly commercial nature of the bootleg—as well as its potential to reach an audience far larger than the *Realist*'s—prompted Disney to file a lawsuit, which was ultimately settled out of court.



**Ashley Holt**  
**NOTMICKEY**

PEN, PAPER, AND PHOTOCOPIES, 2002

Holt has created a pad of clipart, a ready-to-cut image of a familiar cartoon character, and a handy pair of scissors all in one. [www.thrdgll.com](http://www.thrdgll.com)

tion on DVDs, enables Linux computers to play DVDs (when encrypted, DVDs can only be played on Microsoft products) and also allows DVDs to be copied. The movie industry sued 2600's publisher, and although the court ultimately ruled against the magazine, the case inspired hacktivists to create art that incorporates the code. In so doing, the artists argue that computer language is speech and should be protected under the First Amendment. The DVD logo (left), formed from the characters in the CSS-auth source, was generated by an anonymous hacker. For more examples, see [www-2.cs.cmu.edu/~dst/DeCSS/Gallery](http://www-2.cs.cmu.edu/~dst/DeCSS/Gallery).



**Eric Doeringer**

CD - 2002

MIXED MEDIA, 2002

Doeringer has duplicated every CD in his personal collection—302 in all—and repackaged them in hand-printed, numbered editions. Each CD label bears Doeringer's signature, but doesn't provide any information about the style of music on the disc or about the artist or recording company. For more examples of Doeringer's work, see [EricDoeringer.com](http://EricDoeringer.com).

**Michael Colton**

**PUPPY LOVE**

COLOR DIGITAL VIDEO, 2002,  
1 MINUTE

This improvisational short, starring a bull terrier named Punchie, was created in the offices of *Modern Humorist*. The sound track, "Lapdance" by N.E.R.D., is used without permission "but with much respect."



**Brian Springer**

**SPIN**

COLOR VIDEO, 1995, 60 MIN.

Using the 1992 presidential election as his springboard, documentary filmmaker Brian Springer captures the behind-the-scenes maneuverings of politicians and newscasters in the early 1990s. Pat Robertson banters about "homos," Al Gore learns how to avoid abortion questions, George Bush talks to Larry King about halcyon—all presuming they're off camera. Composed of 100-percent unauthorized satellite footage, *Spin* is a surreal exposé of media-constructed reality.



USED WITHOUT PERMISSION

**Todd Haynes**

***SUPERSTAR: THE KAREN CARPENTER STORY***

COLOR FILM, 1987, 43 MIN.

With Barbie dolls as the principal actors, *Superstar* portrays the life of Karen Carpenter and her battle with anorexia. Haynes never secured the rights to the Carpenters music he used in the movie, and Richard Carpenter filed an injunction that kept *Superstar* from public release. Even without Carpenter's court order, the film would probably have been stopped by the notoriously litigious Mattel, the makers of Barbie.



**Negativland and Tim Maloney**

***GIMME THE MERMAID***

QUICKTIME VIDEO, 2002, 5 MIN.

A new short from the band Negativland, with help from Disney animator Tim Maloney, who created this using his employer's equipment after hours. *Mermaid* combines the sound of a music industry lawyer with the voice of the Little Mermaid and Negativland's helium-tinged cover of Black Flag's "Gimme Gimme Gimme." The video will appear on Negativland's forthcoming release, *No Business*, which will be available via [Negativmailorderland.com](http://Negativmailorderland.com) in November.



**Joe Gibbons**

***BARBIE'S AUDITION***

BLACK & WHITE PIXELVISION, 1995, 12 MIN.

In Gibbons's darkly comic take on the Hollywood casting couch, Barbie becomes the victim of sexual harassment and exploitation. Although *Barbie's Audition* was initially selected to appear at Sundance, festival lawyers were concerned about the doll's role and ultimately vetoed the short.



**Phil Patiris**

**IRAQ CAMPAIGN 1991**

COLOR VIDEO, 1991, 19 MIN.

San Francisco-based video artist Phil Patiris transforms network news footage, clips from *Star Trek*, and sports coverage (all used without permission) into a devastating critique of the media/industrial complex. Though Patiris did not encounter any legal problems with this piece, he was later served a cease-and-desist notice from CBS News for similar satirical commentary on his website, [modern.tv.com](http://modern.tv.com).



**Craig Baldwin**

**TRIBULATION 99: ALIEN**

**ANOMALIES UNDER AMERICA**

16MM COLOR FILM, 1991, 49 MIN.

*Tribulation 99* is both a skewed history of United States intervention in Latin America and a satire on conspiracy thinking. With images from newsreels, Mexican horror flicks, and beyond, the sci-fi plot suggests that political unrest can be blamed on space aliens living under U.S. atomic test sites.

**Eugene Mirman, Brian Spinks, and Bill Wasik**

**BLACK THUNDER**

COLOR VIDEO, 2001, 2 MIN.

A series of three commercials parodying political advertising. Composed entirely of found footage, these shorts were created by the organizers of Block This Kick, a New York City comedy series.



**Jem Cohen**

**CHAIN**

16MM FILM ON DVD,  
40 MINUTES, 2002

In *Chain*, malls, highways, franchises and corporate centers across the globe are joined to form an unidentifiable "superlandscape." Exploring the corporate takeover of regional culture, *Chain* consists of footage gathered over the last six years in locations ranging from Florida and Dallas to Berlin and Melbourne. This excerpt is from a one of several *Chain* projects, which will culminate in a feature film.

**Naomi Uman**

**REMOVED**

COLOR FILM, 1999, 5 MIN.

Using a soft porn film from the '70s, nail polish, bleach and a magnifying glass, Naomi Uman transforms a writhing, naked woman into a hole—an empty animated space.



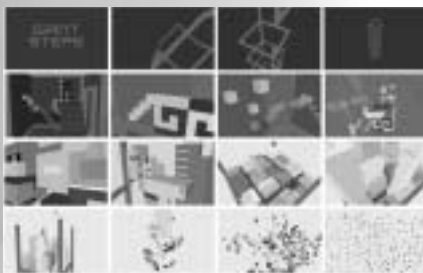
**D. Jean Hester**

**BUY ME**

DIGITAL VIDEO, SUPER 8,  
2002, 4 MIN.

For this surreal meditation on consumer culture, D. Jean Hester recorded images from fast-food and automotive commercials that she then refilmed, hand-processed, filtered, and otherwise manipulated. *Buy Me* is the first in a series of videos by Hester, who is based in Los Angeles.





**Michal Levy**

***GIANT STEPS***

MAYA SOFTWARE, 2001, 2 MIN.

Levy translated John Coltrane's jazz standard into an animated visual—a geometric structure that stretches and careens to Coltrane's sax. In so doing, Levy illustrates the architectural thinking behind Coltrane's work, in which a musical theme defines a space. Levy, who lives in Israel, created this short as a school project and did not get permission for the music. [www.michalevy.com](http://www.michalevy.com)



**Paul Harvey Oswald**

***FAIR USE***, 2002, 2 MIN.

***A NATURAL THING***, 2000, 4 MIN.

COLOR VIDEOS

Paul Harvey Oswald, a collective based in Rockford, Illinois, has been creating video collages since 1994. *Fair Use*, by Doug Connell, explains the group's philosophy of cutting up soundbites and film clips for the sake of parody. *A Natural Thing*, by Matt Conroy and Jenni Taggart, splices together clips from a plumber's instructional guide and a sex-ed manual.

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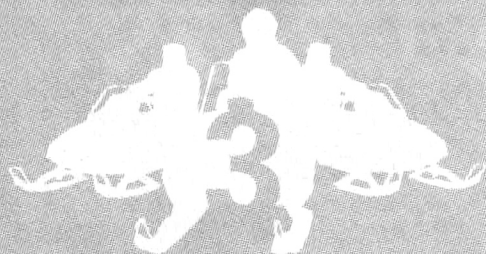
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### 002 **FRUIT OF THE VINE**

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### 003 **BENJAMIN SMOKE**

by Jem Cohen & Peter Sillen

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## REBEL ARCHIVIST

**Stay Free!** talks to film historian  
Rick Prelinger

If you've ever watched old safety films like *Doorway to Death*, experienced *The Fun of Being Thoughtful*, or uncovered anti-Communist plots like those in *Red Nightmare*, then chances are you've encountered Rick Prelinger's work. Prelinger has amassed one of the largest collections of "ephemeral" films in the world. As an archivist and champion of the public domain, he has put a thousand films online at [www.archive.org/movies](http://www.archive.org/movies), making them free for historians, artists, and everyone else. And as a close personal friend of yours truly, he agreed to talk to us about copyright and the plight of the commons.

—Carrie McLaren

### **Stay Free!**

Rick Prelinger

I talked to Siva Vaidhyanathan [see page 12] about how corporations are effectively removing photos and films from the public domain by digitizing them, claiming copyrights for the digitized versions, and then making the originals unavailable. Even though corporations talk about how digital technology is ruining the entertainment industry, it has also given them tremendous opportunity. Are there earlier examples of companies privatizing things in the public domain?

Definitely. Several entrepreneurs, including a controversial man named Raymond Rohauer, reedited *Birth of a Nation*, Buster Keaton's films, and other silent movies. Rohauer gave the films a slightly different continuity and redesigned the title cards, then copyrighted these "new" works. That allowed him to jump on anyone who attempted to release or reuse them.

One of the most well-funded efforts was computer-colored movies, around the mid-1980s. The copyright on many popular movies from the 1920s thru the 1940s was about to expire and the owners wanted to maintain control of these films. So they partnered with a couple of software companies and colorized them. By doing that, they could argue that they were transforming the works—making something new. So then they could copyright the new works. But filmmakers and the public responded with outrage.

### **What were some of the films?**

You name it. *Citizen Kane*, *It's a Wonderful Life*, *Sands of Iwo Jima*...

### **Wasn't *It's a Wonderful Life* already in the public domain?**

It had been recaptured. The copyright on the movie expired but there was music in it that hadn't. So someone bought up the music rights and thereby gained control over the film. Sometimes when copyright on a film expires, all sorts of stakeholders come forward. It's hard to tell what's in the public domain and what isn't, there are so many competing rights. The movie *Reefer Madness* is in public domain but it's actually based on an article that was published in a Hearst magazine, and the article is under copyright. There are many, many situations like that. Just because copyright expires doesn't necessarily mean you can use something. There are other issues involved as well. There might be royalties you'd need to pay for things made under union contract, for use of actors' performances or the director's work. That's why it doesn't make sense to focus on copyright alone. Copyright is only part of the picture. We really need to fight for access to works.

background image: *Citizen Kane*



**What about *Night of the Living Dead*? That was colorized.**

Yes, it was first published in 1958, and George Romero, the producer-director, accidentally left off a copyright notice, which threw it into the public domain. He didn't get royalties from the movie for a very long time, but it reached a huge audience as a result of its public domain status, and was even colorized. Then he was able to make sequels and made lots of money from those.

**It doesn't seem fair that corporations earn copyright protection for transforming works technically, yet musicians can't sample copyrighted works in a transformative way.**

Well, anyone can claim a copyright for new authorship that they add to a preexisting work, but the real issue is, Who owns the raw material? Corporations control most music that rises to prominence in our culture, so they control who can legally sample it. This is just an example of how copyright (and property rights in general) reinforce preexisting power structures.

**What about laser discs? Where did they fit in?**

The industry tried to popularize laser discs in the 1980s because they wanted a "read-only" medium—something that people couldn't record. But unlike colorization (which looked realistic only after about four beers), laser discs offered a lot of advantages. They gave viewers the opportunity to look at movies at different speeds or frame by frame. And they were beautiful. I love laser discs! They also gave producers the opportunity to add supplemental materials—extra footage, historical documents, and interviews—like DVDs do now. In fact, that is a good example of how companies could in fact profit from digitizing things in the public domain even without copyright protection. If they're packaging the film with other items, that context is unique. Even if other companies want to sell versions of the film, the value-added material could still make a particular disc stand out. The materials in the package might be in the public domain, but your combination of them could be copyrighted.

Companies like Disney successfully lobbied to extend copyright in order to protect a few valuable properties. When they did that, they also extended copyright on tens of thousands of other people's works that—because they are still copyrighted—will never see the light of day. So while Disney is increasing the value of its own property, it is at the same time devaluing many, many more works. I'm curious if there has ever been an effort to say, "OK, let's let Disney have their extended copyright. Let them have their special rule. But then let's have the rest of the material go to the public."

There are special clauses about a few things: The Olympic Rings and Smokey Bear are off-limits. But those are for the public good rather than for a specific corporation. I think special treatment wouldn't work anyway because other companies would demand it.

**But the vast majority of people don't care about renewing their copyright.**

Yes, that's true. But you're favoring the big corporations. I think a better way of getting at this problem is to use Lawrence Lessig's idea of establishing "copyduties" to go along with copyrights. This would require copyright owners to make their works available to the public in some way. If they don't, then the works fall into the public domain. That way, all the works that are sitting in a warehouse somewhere are freed up, whether they belong to creators or corporations.

**One problem with the Sonny Bono Act is that it prevents the restoration of films and other media . . .**

Yes, we are losing materials to deterioration, plus a lot of copyrights are abandoned, usually because they're out of date and the owner doesn't need them anymore. But the works are still under copyright, so they can't be used. A lot of really important stuff is very difficult to find or it isn't physically available. And if you do have a copy, you can't find the copyright holder. I have this situation a lot. We have a lot of industrial films that are now under copyright, but we don't know how to get a hold of the owner. As a result, I'm not going to spend money to remaster things on digital tape, I'm not going to make film copies. I'll keep them as cool and dry as the rest of my films, but I have no economic incentive to do that anymore. So a huge number of works are going to languish.

**With most of your films, it's probably safe to say the copyright owner wouldn't care if you used them. They're ephemeral.**

Right. They have more value when repurposed than they might in their original context. Old educational films can't be used in the classroom anymore, but they may have great value as a document of how people used to behave, or how institutions wanted them to behave.



### What are some of the problems libraries are facing?

The main problem is we're rapidly moving to a model where all content is a billable event, and that undercuts the public function of libraries. For example, down the road, it will be harder to rent a movie. You'll have to download the movie and pay each time you view it. That's a problem. Record labels are trying to impose similar models.

### That could happen with e-books too.

Yes, it could happen with any medium—any individual reading becomes something that can be billed. If there was a giant cooperative of artists and creators who owned the system of distribution, that probably wouldn't be such a bad thing, but right now the middlemen are getting the lion's share.

### Are companies preventing libraries from lending things like CDs?

There have been lawsuits, yes. But the big picture is that we're seeing all the revenue models for new media operating in licensing mode. Educational materials and various entertainment forms are likely to be based on video games, which are deeply embedded in a pay-per-use model. A lot of the new content is inherently libraryproof. It's scary. How can a library lend out Lexis-Nexis? How can it lend out a TV program? Copyright law gives owners the right to control access. But there is no law that states affirmatively that the public has the right to access cultural information.

### I don't really understand how access to historical materials could become billable events considering that most academic researchers wouldn't have the money to cover that. They're underpaid as it is!

It doesn't have to be that way. Content owners could benefit dramatically from giving things away. Take my archives as an example. My movies have always had a certain cult following but I could have never predicted we'd get over a million films downloaded in a little over a year. I gross in the low six-figures annually by selling stock footage to television producers and ad agencies. But I also put 1,100 films on the web for free. These films promote what we have in the archives and the images make their way back into the culture. The increased circulation of the images ups their value.

Maybe one positive side to "billable events" is that maybe people will get used to paying for works and won't expect everything to be subsidized by advertising. I'd rather pay \$6 for a magazine I really like than \$3 for one that sucks. And if more people adopted that view, we'd have better media.

That's the HBO model. All the other TV networks are freaking out. HBO gets away with playing *The Sopranos* and *Six Feet Under* and the broadcast networks can't. It's also one of the most profitable networks. Now HBO is even going to conceive and produce shows for ABC.

### As dismal as the whole copyright situation is, there are people out there experimenting with solutions. Can you talk a bit about intellectual property conservancies?

There's an effort underway to do to intellectual property what, historically, we've done with landscape. In the late 19th and early 20th centuries, private corporations exerted unprecedented pressures on the "public domain"—American land and natural resources. They started to exhaust key tracts of land through mining, logging, and agriculture. In response, the conservationist movement lobbied to organize a system of national forests, parks, and monuments that could be preserved for all. In much the same way, an intellectual property preserve might house content and protect it as public property. These assets would be acquired by purchasing certain key resources and by soliciting donations of content—texts, photographs, or artwork, for example.

### Creative Commons [creativecommons.org] is one example. How is this different from, say, the Library of Congress?

Creative Commons is a nonprofit that offers licenses so that people can customize their own copyrights. For example, if you want to let other people reprint articles from *Stay Free!* but only for noncommercial purposes, you can choose a license that states that. Or you can get a license that states, "You can use this but only if you give us credit." Creative Commons plans to create a database with all of the works licensed or donated to the public domain so that it's easy for people to find and use this stuff. It's a great idea. We need more ideas like this instead of just trying to fix copyright law.



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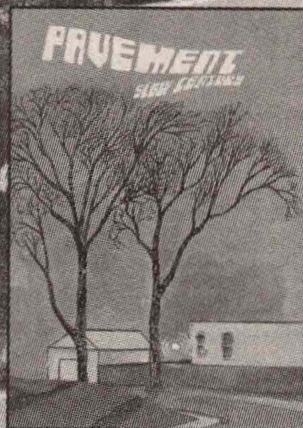
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The top brass at Coca-Cola decided to “salute the city of New York” by holding their annual shareholders’ meeting in Madison Square Garden, and the city saluted them back, in its own way. This was back in April, when I was in the midst of a long period of unemployment from my daytime gig as a freelance TV editor. I received an invitation to the event as part-owner of the company: my nine inherited shares of Coca-Cola stock (worth \$488.59 in April) entitle me to protect the value of my investment by taking part in important corporate decisions. I usually pour over the proxy ballot that accompanies the slick annual report that fills my mailbox once a year. This time, I decided to attend the meeting so I could make my nine votes count in person. I figured there’d be some cool free

samples too.

copious displays of free merchandise proffered by cheery servers—all of it backed by a drone of repetitive upbeat synth music that was probably written by a team of unscrupulous behavioral scientists. A sleepy town like Atlanta may need the sugar and caffeine to get itself revved up, but in midtown Manhattan it felt redundant, desperate—dare I make the pun—flat.

Did I mention that I was unemployed? My work status allowed me to take my time, soak in all the cheesy details, chat up the capitalists, learn what makes them tick, their weaknesses—and pass that knowledge on to you, the interested reader. Or would have, had I gotten up on time.

Two hours late for the meeting, I shuffled through the aforementioned security checkpoints and

spotlights, a gospel choir struck up a rousing rendition of Coke’s latest marketing anthem, a folk-rock infused spiritual number led by Jon Bon Jovi, resplendent in crisp pale jeans and acoustic guitar. (I had missed appearances, live or on video, by Wynton Marsalis, Robert Redford, Will Smith, Charlie Rose, Michael Eisner, Cal Ripken, and Nelson Mandela). In addition to the 50-strong choir, the stage was also crowded with happy, multiethnic models who danced with their feet firmly planted on their appointed spots.

Sutherland led Ali off stage and the song-and-dance throng followed; soon a hush fell on the audience as a long desk, four chairs, and a podium glided to the front of the stage. Coke CEO Douglas Daft, flanked by his top officers and with his image projected onto the mammoth screen behind him, proceeded to make a speech that

# All Coked Up

A DAY IN THE LIFE OF A COCA-COLA VOTER

By Robert Nassau

On Seventh Avenue, we stockholders had to squeeze past barricades protecting us from the rabble: AIDS activists demonstrating against Coke’s worker health-care policies in Africa, environmentalists calling for renewed attention to recycling, and the Teamsters displaying their giant inflatable rat. We then shuffled through security into a maze of plasma television screens playing inspirational videos (big-budgeted “human interest” ads starring baseball players and steelworkers), pithy slogans projected on the walls (variations on “Coke makes a difference” and “We bring refreshment to a new level”), and

multimedia hallways, then quickly juiced up on a shot of a disgustingly sweet iced-coffee concoction provided free at one of the product booths. I joined the thousand-strong audience in the theater just as the “marketing showcase” extravaganza seemed to be reaching its climax. A set had been designed in the fractured undulating style of Frank Gehry blobernism, and as I walked in, Donald Sutherland was onstage instructing the audience to “put your hearts—your hands and your hearts—together” for Muhammad Ali, who appeared to riotous applause. As Ali shook uncontrollably under the

outlined the case for Coke’s global supremacy and good works. He noted that Coca-Cola is held to a higher standard than most companies because of its visibility. Amid the platitudes, I couldn’t help but notice a certain defensiveness in his tone. The more Daft spoke, the more the audience’s sugar buzz subsided. Some made their way back to the lobby to down a few more samples of Vanilla Coke, due in North America a couple of months later; the more serious shareholders shifted their weight around in their seats. The most entertaining spectacle at this point in the program was watching the beefy security men in dark suits close in on a black T-shirted woman with close-cropped hair, who turned out to be an ACT-UP activist trying to hand out literature to the press.

Daft wrapped up his speech by introducing the board of directors, whose illustrious members include financier Warren Buffet, television titan Barry Diller, Home Depot CEO Robert Nardelli, and former

STAY FREE! TWENTY

Senator Sam Nunn, each of whom stood up to give a little wave. Daft then turned the floor over for shareholder comments and proposals, asking each participant to state their name and the number of shares they represented. This was the part I was waiting for.

The owners of a corporation (shareholders like me) are supposed to exert their power over management through proxy votes such as the one I was now participating in. The proxy statements I receive in the mail usually have four to six proposals that we shareholders vote up or down: a few items from management, such as a list of

practice. I was still filling in my proxy when Daft wrapped up the speechmaking and called on the company's treasury secretary to make an announcement—she had the results of the vote. I wanted to stand up and accuse them of fraud—there's no way they could have counted everyone's votes so quickly, but before I could think of what to say, the results were already being rattled off: 95 percent against the recycling goals, 95 percent against adoption of a comprehensive code of conduct (proposed by a Catholic Investment Service in response to accusations that Coca-Cola bottlers in Colombia use paramilitary groups to intimidate and assassinate labor organizers), 95 percent against pro-human rights business principles in China, and 95 percent against the Teamsters plan, which would

appointees to the board, and some items from shareholders, who are typically managers of socially-conscious mutual funds, representatives of religious organizations, and other activists working for pools of progressive-minded investors. Shareholder proposals are invariably followed by the voice of management, in bold, with all caps driving the point home:

*The Board of Directors recommends you vote  
AGAINST  
the proposal for human rights.*

Now the activist shareholders lined up in front of the microphones and lodged their grievances one by one, while the rest of us filled out our proxy ballots. As each speaker introduced himself, a small murmur arose, the crowd responding with admiration to a high number of shares and a collective shrug to those who owned few. Across the aisle from me, a potbellied man and his baseball-capped son rolled their eyes when a mutual fund manager in a green suit and ponytail officially presented Item Four, which proposed the company set national goals for recycling. What really sent the guys into hysterics, though, was a woman representing the Primate Freedom Project, who lambasted the company for donating money to Emory University, which experiments on monkeys.

After studying the ballot and listening to each of the speakers, I decided to vote pretty much against whatever management wanted, as is my usual

have prevented executives from cashing in their stock options within a year of significant company layoffs.

Of course, the ballots sent in over the preceding months had already been counted, and since Coke, like other modern corporations, is owned mostly by large institutional investors—pension plans, mutual funds, insurance companies, investment banks, foundations, and the like—I imagine the data wasn't difficult to tabulate. That's democracy, corporate style; they wouldn't do it if they couldn't have it their way.

Our business done, we shareholders filed out of the theater for a buffet deli lunch and a souvenir bottle of Coke encased in a small plastic container, which we clutched as we were disgorged back into the unseasonably hot sun beating down on Seventh Avenue. Most of the protesters had disappeared; only a few were left waiting for a van to pick up their masks and placards. I approached an activist—the same young woman who had been tossed out for distributing flyers—to find out what I had missed on the street. "Did you see our giant Coke bottle?" she asked. "It was even bigger than the rat."

The next time Coke's annual report and proxy arrives in my mailbox, I don't think I'll follow it too closely. Not out of any bitterness or disillusion; it's just that I finally got a job.

# SHOPPING WITH TED:

## THE SERIAL KILLER IS OUR BEST CUSTOMER

By J. M. Tyree

Investigators rewarded Henry Lee Lucas with a strawberry milkshake every time he confessed to a new murder. At the height of his celebrity in the mid-1980s, Lucas had more than 600 homicides to his name, a number that would have made him one of the busiest killers in human history. He and his partner in murder, Ottis Toole, claimed they had roamed the country at the behest of a satanic cult. Although Toole said he liked to eat his victims, Lucas refused to join in, joking to the press that he didn't like the taste of barbecue sauce.

Lucas became a media sensation. He interviewed for a true-crime book based on his story (*Hand of Death: The Henry Lee Lucas Story*), inspired the 1990 film *Henry: Portrait of a Serial Killer*, and spawned a host of other infotainment products. For Lucas, a lifelong drifter who had once lived in a chicken coop, the confessions were a ticket to a lowbrow version of the highlife. His jail perks included a carpeted cell, premium cable channels on a personal television set, and take-out from the Sonic drive-in. In a sense, he had achieved the couch potato's dream lifestyle, while simultaneously becoming a product himself, the dream villain of TV land.

The only problem, according to reporter Ron Rosenbaum, was that the confessions were bogus. In a brilliant *Vanity Fair* essay dissecting the case, Rosenbaum called Lucas "the best liar in American history." All along, investigators had been inadvertently feeding Lucas details of the crimes to which he confessed. Institutional inertia kept the facts hidden while the hoax mounted. As Joyce Lemons, the mother of a murder victim falsely attributed to Lucas, told Rosenbaum, "Henry had been everybody's ticket to glory, there were all these book contracts."

The Lucas media circus was made possible by the super-predatory serial killer, a monster-myth that had been recently developed for political expediency. In 1983, the U.S. Senate's Juvenile Justice Sub-Committee on child kidnapping and serial homicide, chaired by Arlen Specter, concluded that 3,600 "random and senseless" murders had occurred in 1981. Although the subcommittee had twisted crime statistics to reach this number, *Time* magazine duly produced a story on this "new breed of killer." The serial killer, as public menace, was born. These murderers without motives, as Richard Rhodes notes in his 1999 book *Why They Kill*, served the bureaucratic purposes of the FBI's Behavioral Science Unit, which was tasked with defining and profiling the serial killers

they had helped label. Serial killers also served a law-and-order penal agenda: Lock up these unredeemable fiends and throw away the key.

Meanwhile, the fictional serial killer was turning into stock footage, thanks largely to the Hannibal Lecter franchise. Readers and movie audiences are now trained to recognize the psychological patter of profilers hot on the trail of cunning pattern-killers, both in the true-crime and fake-crime genres. As the case of Lucas shows, reality and fiction have become hopelessly intertwined.

The myth could not have developed without real cases, and the classic killers—figures like Ted Bundy, John Wayne Gacy, "The Nightstalker" Richard Ramirez, and Jeffrey Dahmer—became subjects of intense public interest. Sensational coverage of murder trials, of course, is nothing new; in a sense, serial killers satisfy old lusts for spectacle and outlaw celebrities. But something about them jibes with our cultural moment. Rosenbaum, for example, called Lucas "a prototypical eighties phenomenon" and "the criminological equivalent of junk bonds." Serial killers perhaps represent the Wal-Martizing of crime; inhuman and mechanistic, they leave a nationwide chain of identical horrors in their wake, on a grand scale with which local operators can no longer compete. The key trait of serial killing, after all, is volume, the sheer scale of the body counts.

Yet on the national scale, serial killers are practically irrelevant as a real threat to the populace. Serial killers are responsible for no more than about 200 murders per year, according to the FBI, while eye cancer causes approximately 2,000 deaths each year. But eye cancer lacks the drama of cannibalism, psychopathology, and sexual deviance. Serial killers, like any other larger-than-life villain, give us someone to hate. Paradoxically, they both terrorize us and make us feel safe, in part because they are numerically rare, and in part because of the illusion that law enforcement superheroes are out there hunting down the bad guys. It is difficult, therefore, to draw any clear distinction between the fictional serial killers consumed in multiplexes and video stores, and the actual killers whose trials and executions sell newspapers and television spots for detergent and antacids. Crime has always moved the merch, but the serial killer seems especially suited to the era of hyper-media coverage, live images from basements filled with bodies, TV reporters posted outside courthouses and prison walls.



Granted that the real gore is still confined to the tabloid gutter, serial murderers make ideal low-budget fodder for late-night cable infotainment, with lurid simulations and reconstructions passing for educational docudrama about law enforcement techniques. The bottom line from marketing: murder, whether fictional or real, makes viewers watch ads.

Serial killers, as cultural products, perpetuate the vision of the criminal as animal, someone who has forfeited his membership in the human race. Such a concept of radical evil can be comforting, as it puts an immovable boundary between us and them. Yet serial killers generally seem to live like most people, most of the time. They are imbedded the same consumer culture that immerses everyone else—they shop at the same stores, watch the same TV.

Fellow customers at Dahmer's supermarket probably didn't think twice when he dropped Clorox bleach, Soilex, and Odor-Sorb into his cart. Only when his apartment turned into a crime scene did these cleaning supplies become the ultimate anti-product placement. It is not impossible to imagine Dahmer appearing in a commercial for Odor-Sorb or giving Soilex a true-life testimonial in a late-night infomercial. And when he bought a second freezer unit for his apartment, his family became curious about the purchase but not curious enough to investigate.

Consumer culture, even while it exploits their crimes for public titillation, also provides the killers with a shared databank of cultural references, sometimes recycled with a chilling and unintentionally comic effect. Charles Manson, a serial-killer prototype, based an entire paranoid political prophecy of apocalypse and race war on the Beatles' song "Helter Skelter." His access to the record, and his misinterpretation of the phrase, relied on a new system of global trade where pop culture was interchangeable between continents, even if the lyrics on hit albums were not always in the native idiom. Would things have turned out differently if Manson had known that a helter skelter is actually a British amusement park ride? Equally bizarre is Ramirez's remark to the press upon learning that he would face execution: "I'll see you in Disneyland." Chances are he was mimicking the annual Disney ad in which the quarterback who just won the Superbowl tells the camera, "I'm going to Disneyland!" Disneyland, as a corporate stand-in for heaven, or slang tag line for some fabulous unrealized future, might just be hell.

To see serial murderers saturated in consumer culture places them firmly among us. Ted Bundy, for example, was obsessed with socks. During the period leading up to his capture, Bundy used stolen credit cards to go on shopping sprees, bingeing on new clothes, especially tube socks. Apparently one of his ambitions in life was

to acquire enough socks to wear a new pair every day. The dream seems absurd, in part because it is so easily attainable. At the same time, Bundy appears to be a real-life American Psycho, whose shopping fetish highlights the national obsessions regarding new socks and clean laundry. Why do we bother buying white socks in the first place; why do we try to keep them white; why do we lament their pinkish discoloration in the wash; why do we bleach them and throw them away when they turn gray? They're a particularly American interest. Hardly anyone anywhere else in the world wears them; they are a signature feature of the American tourist abroad.

The fact that we're conditioned to crave new clothes does not usually involve any irresistible desire to strangle people with them. Shopping with Ted, however, makes him seem more human, and in a particular way identifies him with consumerist culture in late twentieth-century America. Bundy's sock compulsion, though freakish, connects him with the culture of "buying in bulk," the Price Club spree that assuages our fear of running out by stocking up. In Bundy's case, it was probably evidence of pathology but one not limited to psychopaths by any means.

A peculiar relationship exists between serial killers and mass production/consumption. The end product, in theory, is always supposed to be identical. The serial killer is an assembly line producing human corpses with a signature M.O.—the killer's brand. The killer is himself also a product, both as a consumer raised in a particular social milieu and as a consumable artifact of that same culture.

Yet the most obvious fact about serial killers is the most subversive: they are human beings. As cardboard villains for our consumption, they fulfill a need for someone to hate unequivocally, without mitigation, hesitation, or sympathy. The putative subhumanity of murderers, of course, makes their extermination socially acceptable. When Ted Bundy was put to death in 1989, for example, gleeful "Fry-Day" cook-outs were held across the country. Apparently the prospect of Bundy's imminent electrocution didn't keep people from brandishing burger flippers and meat forks; they wanted the event to be a kind of TGIF BBQ. The spectacle of execution became a media event with the pagan flavor of a blood feast, a symbolic act of cannibalism. Reports described people "charging up" the national grid by using more electricity that night in order to "help" kill him. This mass consumption somehow magically increased the amps being delivered to the condemned. It begins to sound like a fable—you consume to fight against the life force of evil, and the more you consume, the more utterly will the evil be destroyed. But, by an imploding logic, the moment when we celebrate killing is when we most resemble the killers themselves.



# The media doesn't influence us except when it does.

For anyone who teaches or writes about media, the issue of violence is hard to avoid. Both ends of the debate are represented by zealots—the censors and the free-speech absolutists. The free-speech contingent operates under two basic assumptions: first, if you express concern about media violence, you are obviously some a priori moron who sees an imaginary immediate direct causal connection between onscreen violence and the real thing. Second, since you see such a connection, it follows that you must be an advocate of censorship—you must, in other words, be the other kind of zealot, the Tipper Gores and Phyllis Schlaflys who want to suck all the pleasure out of life and turn the country into a giant, Christian nanny state.

This “censorship” vs. “free speech” debate frames the way media violence is discussed even among people who should know better. Media educators can while away days debating whether media violence even affects people at all, with many contending that there's no evidence it does. This is a curious position for them to argue. The mainstream media literacy movement is predicated on the idea that media construct reality. Media influence our views on race, gender, politics, and body image—these ideas are accepted as givens. But somehow, when it comes to violence, the effects aren't “proven.”

Television executives are also quick to deny the influence of media violence. Yet the entire economy of television hinges on viewers' suggestibility. When NBC sells time to Microsoft and Toyota, it does so by hawking the tube's power to move minds. (The fact that individual commercials may fail to result in

purchases is immaterial here.) Media's ability to influence people is a no-brainer for the simple fact that media is everywhere and everything; it is central to American culture. To argue that people aren't influenced by media is to argue that they aren't influenced by culture, and you don't need to be Margaret Mead to know that's insane.

We may laugh at the idiots who light their heads on fire because Beavis and Butt-head did it. Or the guys who, taking a tip from Walt Disney's *The Program*, lie down on the highway. But all of us are swayed in one way or another. The vast majority of media-induced actions don't make the AP wire because they are, well, banal. [See page 48.]

When Fonzie brandished a library card on *Happy Days*, library registration shot up nationwide. After a popular Budweiser campaign, people nationwide began greeting their pals, “Whassup!” (To capitalize on the spots' popularity with children, J.C. Penney even sold “Whassup” kiddie T-shirts.) When Ally McBeal wore a certain style of pajamas, thousands of viewers asked retailers for them. It's the same thing with movies. *ET* and *Reese's*. Tom Cruise and Ray-Bans. *Dirty Harry* and .44 Magnums. And it's not just companies that exploit media's influence. Many large nonprofit groups—from the NAACP to the White House drug office to the American Medical Association—hire people to lobby Hollywood for favorable coverage.

Does violence in the media influence the real world? Of course it does. Cop shows and crime reports make us scared of other people, of going out at night, of helping out strangers. That is perhaps its primary effect. But there

should be no doubt that watching violence can also lead to violence. To say that it can is not to say that it does in most circumstances, with most people, in most places. Nor is it to say that violent media creates violent behavior out of nowhere.

Whether someone's violent tendencies originated with an abusive parent or with *Dirty Harry* is on a certain level irrelevant; the fact remains that a steady diet of media blood and guts isn't good for some people, some of the time.

To say all this is simply to acknowledge an uncomfortable truth, one for which there is no easy solution. Censorship by righteous experts or government officials is not the answer. Even if you ignore the serious First Amendment issues involved, censorship schemes could at best treat only the symptoms. The real problem with the media is not overt violence, but an unchecked market that churns out content strictly for bucks. The only solutions, then, are far more radical: the establishment of a truly public broadcasting system, as opposed to the limp vessels of PBS and NPR. Let the corporate-owned networks program whatever garbage they like. Providing true alternatives to commercial media would give viewers more choices. And even if a fraction of the audience watches the alternative channels, their presence would help put things in perspective, onscreen and off.

—Carrie McLaren

After the 1966 NBC-TV thriller *The Doomsday Flight* depicted an airplane hijacking, the nation's major airlines reported a dramatic rise in anonymous bomb threats (some of them considered teen pranks). The network agreed not to run the film again. (Richard Campbell, *Media and Culture*, page 415)

A five-year-old set his baby sister's bed ablaze with a cigarette lighter, killing her and destroying his home. According to the boy's mom, he got the idea from MTV characters Beavis and Butt-head, who play with fire and say things like "Fire is cool." In Ohio, three girls set a house on fire while attempting to copy a scene in which Beavis (or possibly Butt-head) sets fire to his buddy's hair by igniting spray from an aerosol can. The girls, however, used the technique to set clothing on fire, not hair, and ended up burning the house. (Los Angeles Times, October 14, 1993)

During a holdup of an Ogden, Utah, stereo shop, Andrews and Pierre Dale Selby forced five employees and customers to drink liquid Drano. The men said they got the idea from the Clint Eastwood movie *Magnum Force*, in which a pimp kills a prostitute by making her drink the product. (Newsday, August 10, 1992)

A gang in Manchester, England, tortured a 16-year-old girl, set her afire and left her dying, while one of the attackers repeated a line from *Child's Play 3*: "I'm Chucky—wanna play?" (The New York Times, July 10, 1994)

After watching a genie on TV slap someone on both sides of the head, two children in

England copied the stunt and suffered perforated eardrums. Other children, in different parts of the country, were also injured in what became known as "the slapping craze." (The Guardian, March 12, 1992)

A man convicted of multiple murders in suburban Orange County, NY said he killed the first of his six victims in the manner he'd seen in *Robocop*. Referring to a character in *Robocop II*, Nathaniel White told WNBC: "I seen him cut somebody's throat then take the knife and slit down the chest to the stomach and left the body in a certain position. With

the first person I killed I did exactly what I saw in the movie." (Newsday, August 6, 1992)

After watching the film *Natural Born Killers*, which portrayed serial killers Mickey and Mallory on a rampage across America, Nathan Martinez, 17, shaved his head and began wearing tinted spectacles like Mickey (played by Woody Harrelson). Martinez then drove to Salt Lake City, Utah, and murdered his stepmother and 10-year-old half sister. (The New York Times, November 5, 1994) ... A southern Georgia couple, Ronnie Beasley and Angela Crosby, watched

the movie nineteen times, then embarked on a crime spree of carjacking, theft, kidnapping, and murder. Beasley also shaved his head like Mickey's, and the two lovers used the names Mickey and Mallory in correspondence with each other after they were apprehended. Another couple, Ben Darras and Sarah Edmonson, reportedly watched the movie six times in one night. Setting off in Sarah's car, they robbed and killed a cotton gin manager in Mississippi, then shot and paralyzed Patsy Byers, a convenience store clerk in Louisiana. (Robert Brent Toplin, *Oliver Stone's USA: Film History and Controversy*, 2000)

After rugby stars Matthew Ridge and Marc Ellis were shown jumping off a waterfall in a television commercial in England, at least 14 people died trying to replicate the stunt. (The Dominion, December 30, 1997)

# The media made them do it.

After the assassinations of John F. Kennedy, Robert Kennedy, and Martin Luther King Jr., the number of threats against prominent government figures jumped more than fivefold. The number of homicides increases significantly after publicized prizefights "in which violence is rewarded" and drops significantly after publicized murder trials, death sentences, life sentences, and executions "in which violence is punished." Suicides increased after Marilyn Monroe's death, as they do after the media coverage of just about any suicide. (Leo Bogart, *Commercial Culture*, 1995, page 171)

Imitating a popular wrestling move, a 17-year-old boy threw a 3-year-old boy on the ground and then dropped down to elbow him in the midsection (The Fort World Star-Telegram, July 14, 2001). In Florida, 14-year-old Lionel Tate, imitating a wrestling hold he saw on TV, bear-hugged six-year-old Tiffany Eunick, lifted her, and dropped her on the floor, killing her. (Los Angeles Times, March 10, 2001)

After watching the film Braveheart, a Scottish teenager attacked an English schoolboy because of his accent. Paul Rennie copied his idol, William Wallace, by shouting the battle cry "Freedom!" as he and two other teens punched and kicked the 15-year-old boy in the head. (The Ottawa Citizen, August 20, 1997)

Leonardo DiCaprio's "king of the world" stunt in Titanic—in which he spreads his arms and appears to be flying from the front of the ship—led dozens of young men to

risk their lives on cruise liners in a bid to imitate him. The rash of mimics prompted the United States Passenger Vessels' Association to issue a "Titanic Alert" to its members, urging them to close off the bow areas of ships. The alert was no help for a Swedish woman, however, who was presumed drowned after falling from a ferry while attempting to copy the suicide attempt of Kate Winslet's character. (The Daily Telegraph, June 25, 1998)

Two teenagers from Pennsylvania and another from Long Island suffered dire consequences after imitating a stunt from the movie The Program. Like the college football hero in the film, the teens tried to prove their mettle by lying down in the middle of a road at night. Unlike the film's star, however, one was killed instantly, the other rendered in critical condition. According to the mother of the teens,

The effect of the film on cruise ships wasn't all bad. Industry sources say the film—ironically enough—inspired more people to go on cruises. The increase in sales was particularly evident among twentysomethings. (The New York Times, March 29, 1998)

After the release of Stanley Kubrick's film A Clockwork Orange in England, young men were seen marauding the streets dressed like the ultraviolent "droogs" in the film. A 16-year-old boy said to be "obsessed" with the movie was convicted and sentenced after he kicked a 60-year-old to death. Another 16-year-old—dressed as the star of the film, in white overalls, a black bowler hat, and combat boots—savagely beat a younger child. And a 17-year-old Dutch girl was raped while camping by a gang who chanted, "Singin' in the Rain." (Vincent LoBrutto, Stanley Kubrick: A Biography, 1996)

other kids said that about 30 kids were playing the "game" a few miles up the road the same night. (The New York Times, October 19, 1993).

After watching a television movie about a woman who burned her

abusive husband to death, a man doused his estranged wife with gasoline and set her ablaze. The man, who was dressed for combat in fatigues with a mud-smeared face, told the police that the The Burning Bed, starring Farrah Fawcett, had inspired him to "scare" his wife. Meanwhile, in Quincy, MA, a husband angered by the movie beat his wife senseless, telling her he "wanted to get her before she got him." And in Chicago, a battered wife watched the show—shot her husband. On a perhaps slightly more positive note, battered-women's centers from Boston to Los Angeles were inundated with calls for help after the program aired. (The New York Times, October 10, 1984; Newsweek, October 22, 1984)

A 13-year-old poured gasoline on his feet and legs and lit himself on fire, imitating a stunt he'd seen on the appropriately titled MTV series Jackass. (Daily News, January 30, 2001)

Following a Tonight Show episode in which host Johnny Carson was “hung” by professional stuntman Dar Robinson, Shirley and Nicholas DeFilippo found their son Nicky hanging from a noose in his bedroom—the television still tuned to NBC. (Cynthia A. Cooper, Violence in Television: Congressional Inquiry, Public Criticism and Industry Response, 1996)

After Rob Reiner’s 1986 film Stand by Me depicted hooligans leaning out of car windows to whack mailboxes with baseball bats, kids across the country followed suit, (Los Angeles Times, October 14, 1993)

So many kids hurt themselves playing Evel Knievel that members of Congress once pressured the networks to stop televising his stunts. An article in Pediatrics medical journal discussed the “Evel Knievel syndrome.” (Frank Mankiewicz and Joel Swerdlow, Remote Control: Television and the Manipulation of American Life, 1978, page 53)

In the 1970s, an investigation by Senator Gaylord Nelson of Wisconsin found that millions of children turned to pill-popping in response to television commercials. Nelson’s concern grew after his children—a six-year-old and an eight-year-old—asked him for sleeping pills. Nelson’s work was bolstered by a compendium of articles on “Television and Human Behavior” issued by the Rand Corporation, which lists more than 20 studies showing a positive correlation between heavy viewing of television commercials and children’s use of over-the-counter drugs. In 1973 there were 4,275 cases of children’s aspirin poisoning (and even more vitamin poisoning) reported to the U.S. Department of Health, Education, and Welfare. (Remote Control, pages 240-41)

After watching Tom Selleck jet around in a red Ferrari on Magnum PI, Mel Spillman grew obsessed with the car and did everything he could to buy similar ones. In the late 1980s, Spillman embarked on a 15-year crime spree, looting the estates of 122 deceased residents in San Antonio, Texas, to pay for his Ferrari habit. By the time he was caught, Spillman had acquired six Ferraris and a \$450,000 mansion, which he filled it with artwork based on Ferrari’s rearing-horse logo. (People, July 9, 2002)

When James Dean and Corey Allen played “chicken”—a game to see who can speed closest toward the edge of a cliff before jumping out of the car—dozens of teens went plummeting to their death trying to imitate that scene from 1955’s Rebel Without a Cause. Interestingly enough, when it first marketed Rebel Without a Cause, Warner Bros. anticipated the copycat incidents. To allay criticism and distance itself from any problems, the studio produced a clip of star James Dean urging kids to “Take it easy driving out there. The life you save might be mine.” The clip was never used, however, because Mr. Dean was killed in his speeding Porsche shortly before the movie was released. (Boston Globe, October 20, 1993, The Wall Street Journal, July 21, 2001)

Circa 1987, after Beastie Boy Mike D started wearing a hood ornament around his neck, teenagers across the U.S. started stealing ornaments from cars, in imitation of the rap star. Though Mike D wore a Volkswagen symbol, kids seemed to prefer those of Mercedes and other luxury vehicles. (Washington Post, June 23, 1987)

Following the Los Angeles Police Department’s shootout with the Symbionese Liberation Army in 1974, ABC launched a program about a paramilitary-style police force, S.W.A.T [Special Weapons and Tactics]. Subsequently, SWAT teams—armed with submachine guns and other heavy gear—began proliferating in local jurisdictions across the country. In 1975, there were more than 500 SWAT units, many in affluent areas with scant violent crime. (Remote Control, 262)



# The media...made me do it.

Stay Free! asked: Have you ever imitated something you've seen on TV or in the movies?

In reply, our readers and contributors shared their witty comebacks, special outfits, and not-so-secret fantasies, which appear below in no particular order.

7

When I was in high school, I saw an episode of *Real People* about a boy with no arms. The story showed him using his feet to dress himself, play soccer, and eat at the table. He laughed and held his cutlery between his toes. After watching this, I trained myself to use my toes for all manner of basic tasks normally performed with hands: dialing the phone, lighting cigarettes. In college, I would show off all these foot tricks for my friends. (And my parents thought that knowing how to play bridge was essential for socializing at college!) Even today, I still do many things with my feet that others use their hands for. When barefoot, I never bend over to pick anything up: I simply use my toes. —Catherine Sears

4

Nothing filled pediatric wards with broken tibias faster than the sight of Evel Knievel attempting to jump buses on TV with his motorcycle. While I never imitated him myself, I was more than happy to help construct the flimsy wooden ramps that would send my friends hurtling into the pavement on their Huffys on many a suburban Saturday. I can't imagine how well bicycles must have sold back then as they were continuously destroyed and replaced in these feats of daring.

Mercifully, I seemed immune from this influence. However, I did once jump off the roof with an umbrella like the Penguin on *Batman*. —Ashley Holt

15

First of all, yes, I know how supremely geeky this is. But when I was in high school I sometimes wore a 12-foot scarf—like Doctor Who's—that my mother knitted for me. By “sometimes” I mean “every day.” I also wore numerous Doctor Who T-shirts and accessories, including a classy enamel pin depicting the fifth Doctor in his full regalia. One day, this girl looks at it and says, “Oh, my God, is that you wearing your scarf?” All this time I was slavishly imitating a TV character and she thought I was a fashion trendsetter (albeit a disastrously failed one). —Daniel Radosh

13

When I was in the eighth grade, I ordered a pizza to my math class after watching Spicoli do it in *Fast Times at Ridgemont High*. The pizza actually arrived late because the delivery guy went to the wrong junior high. When he finally got to my class, my teacher immediately knew it was for me and flipped out. The school put the pizza into the school vault until they could figure out what to do with it—and with me. I think I got detention for a week, but they gave me the pizza back at the end of the day, so I had a nice picnic with some friends as we laughed about the whole thing. —Sarah Jacobson

3

I dressed like the Fonz one traumatic fifth-grade day. As soon as I stepped on the school bus, I realized the grievous error in judgment I'd made. I was stared at, laughed at, and taunted (“Ayyy, Fonzie! You think you're tough? Huh, Fonz? You gonna beat me up?”) like never before—and I was already something of a social outcast. I unslicked my hair in the bathroom before second period, but even my friends never forgot about it. Years later in high school, my friend Ed would frequently ask “Hey Mike! Remember when you dressed like the Fonz?” before collapsing into giggles. —Mike Appelstein

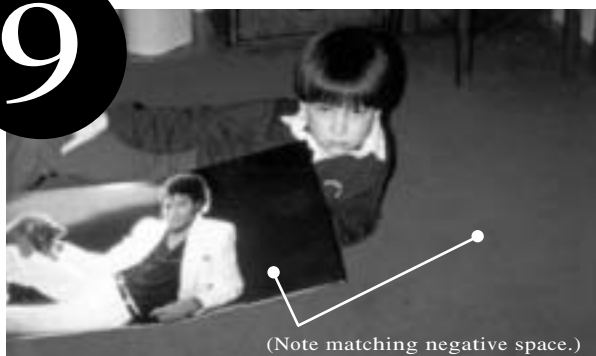
22

Mike, someone I knew from the Boston punk scene, was a big guy who was impressed by the movie *Fight Club*. Inspired, he started a similar club in Cambridge. But instead of a bonding experience, it apparently was just guys getting beat up by Mike. It was completely consensual, just that nobody could fight nearly as well as Mike could. Eventually the Cambridge Police broke it up, and the non-Mike participants were reportedly just as happy to have an excuse to stop as they had been to fight in the first place. Meanwhile, Chuck Palahniuk (author of the book *Fight Club*) denied knowing that any real fight clubs exist. —Rich Mackin

23

I can't remember where or when I saw Mary Poppins float down to earth with her magical umbrella, but I do remember desperately searching the house for my own umbrella so I could experience the same graceful descent. I found an umbrella and climbed to the very top of the monkey bars in our backyard. I was so confident that the same laws of physics would apply that when I hit the ground with a BANG I reasoned that it must be the wrong type of umbrella and went inside to look for another. Armed with my new umbrella, I plummeted down to earth just as quickly as before. My final attempt involved both umbrellas, which was a big mistake because I had no free arm to help break my fall and became tangled up in a mass of umbrellas, frustration, and pain at the base of the monkey bars. —Leslie Mello

9



—Michael Colton

20

My life amounts to little more than a futile search for Laura Petrie of The Dick Van Dyke Show. This is my curse. —Paul Moshay

5

When Madonna first came out with that "Express Yourself" video à la Fritz Lang, my two best friends and I used to dance along every night when it was on the MTV top video countdown, "working on our moves" as it were. It actually got to the point where we practiced crawling under the kitchen table (fetchingly) and lapping at a bowl of milk.

Also, I cut off all my hair and started wearing boxer shorts so I could look like Mary Stuart Masterson in *Some Kind of Wonderful*. When people see pictures of my family from that awkward period they mistake me for a boy, saying, "Your brother is gorgeous," which I only recently started taking as a compliment.

—Brett Kelly

6

After seeing *Raiders of the Lost Ark* I left the theater feeling like Harrison Ford. It was as if I could swing from trees and outrun blowdarts and giant rolling boulders. My sister tied a rope to the back of her bike and I lay down in the middle of the street and held onto it. I don't remember if Indy did this in the movie, but I wrapped the rope around my left arm so I couldn't let it go. My sister tried to drag me down the street, but after a few feet, I was crying so bad she stopped. My knees and face and arms were all scraped up. —Steve Reynolds

14

In my junior year of high school, I started dressing like Alex from *A Clockwork Orange*. Nearly every other day at school, I wore combat boots, cook pants, a white shirt, suspenders, and a bowler. I couldn't get a shillelagh, so I used a cane with knots in it instead. I went to see the movie 19 times, and the last eight times I wore my *Clockwork Orange* outfit. I even used to hitchhike in it. Everyone thought I had wiggled out; you don't do that in New Hampshire. I dressed this way for about six years. —Jim Rocheleau

10

I was one of the few kids in elementary school who didn't have a TV, which made keeping up on lunchtime conversation extremely challenging. I did, however, have a downstairs neighbor with an old black-and-white contraption, who let me watch *Happy Days* with him. I thought most of the characters were dorky, but secretly I knew I was just like the Fonz.

One day, on a class field trip, I dropped my notebook. I picked it up with my thumbs out, the way I did everything, the way I imagined the Fonz would pick up his notebook. "Hey," another kid said to me, "are you trying to pick up your notebook like the Fonz?" I was mortified and hotly denied it. "Of course not," I said. "Don't be stupid, that's just the way I pick up my stuff."

He nodded but with a smirk, and walked away. My career as a Fonzie-wannabe was over.

—Rachel Neumann

19

When we were about eight, my best friend, Carrie (who happens to edit this zine), and I would turn one of our living rooms into a mini-wrestling arena. With WWF on television in full view, and with no regard for the taunting of our brothers, we would each choose a wrestler and then act out the match as best we could. This was fairly easy since each of us was cooperating in the drama we were portraying; we never tried to hurt each other and didn't play in an angry way. We simply thought it was fun. Funny also is the fact that we didn't realize WWF was fake—so we were “faking” an already fake event. —Wendy Marich

12

In junior high, I was outside one day with friends and there was a guy giving me a hard time. He wasn't bigger than me, in fact, he was thinner, so I wasn't too afraid when things got more physical and we started shoving each other. He backed up and reached in his pocket, as if he were scrambling to pull out a pocketknife. Just then I remembered a scene from an old gangster movie where a guy was fumbling in his coat to pull out a weapon. The phrase it invoked in the other, unarmed man, had struck me as a really cool line, so I repeated it to this kid: “You'd better be reaching for a sandwich, because I'm gonna make you eat it!” Unbelievably, this stopped the kid and he just walked off, sneering. —Bob Kathman

1

Almost every time I shop for groceries, I throw something into the cart in a desultory fashion in homage to Mary Tyler Moore, who does this in the opening credits. —Chip Wass

24

My best friend Wendy and I watched Saturday Night Live religiously when we were in fourth grade—the same year we convinced our math teacher to let us perform skits for the class. Every Monday, the class would take time out to watch Wendy, me, and a couple other friends and our zany antics. Although I probably never would have credited SNL for the idea, I tried to write fake newscasts in the SNL style, and even stole a few of their jokes (figuring no one would notice with all those good snot gags thrown in).

On an unrelated note, I read *A Clockwork Orange* in high school and—though I didn't understand the book at all, and wasn't particularly fond of it—thought it would be cool to appropriate the character's slang in my everyday speech. “Droogies” for “friends”, “moloko” for milk. Needless to say, this never caught on. —Carrie McLaren

16

In fifth grade, I had a snazzy red electric guitar with a whammy bar that I never really learned how to play. Instead, I would wear ripped jeans, mousse up my hair and “air guitar” to Poison, Whitesnake and Mötley Crüe videos. I would pretend to ape the moves of Bret Michaels, Vince Neil, et al. The culmination of this was my lip-synched performance of Poison's “Talk Dirty To Me” with three friends at the school talent show. Unfortunately, my friends were more in awe of my electric guitar than my slick moves. —Nick Nadel

22

When I was very small, I was fascinated by Zorro, the masked and sword-wielding star of the Disney TV series. I prevailed upon my mother to make me a mask, cape, and hat, which I regularly donned before charging madly about the house with a little toy sword, hacking and slashing away with great heroism at the bad guys who threatened our home. One day, my mother showed me a picture of myself in this condition. I couldn't believe how stupid I looked, standing there with my droopy little cape and plastic sword in summer shorts and bare feet. I never wore the costume again, and I suspect this is why I've never owned a TV. —George Donovan

2

When I was about five or six, I was totally infatuated with Underdog—a cartoon canine with a secret identity. Especially intriguing to me was the “super energy pill” hidden in Underdog's ring. When he found himself in trouble or when the apple of his eye, Sweet Polly Purebred, called for help, U-dog would open his ring and pop a pill. Accompanied by a triumphant chorus, he would transform from a wimpy pup into a muscle-bound, albeit clumsy, hero complete with a cape and the ability to fly.

As an aspiring hero myself—already hopped up on many a Saturday morning episode of *Batman*, *The Lone Ranger* and *Zorro*—I thought the pill option was the quickest route to public adulation. And I knew of many pills hidden in the house. One afternoon, I climbed the counter and took a bottle of the orange-flavored St. Joseph's Aspirin for Children (most likely because I had been given some during a previous illness).

Over the next several hours, I flew through the living room, jumping on and off the sofa, battling bad guys up and down the stairs, and strategically downing the orange tabs as crime-fighting circumstances dictated. By dinnertime, unsurprisingly, I was barely able to rise from the sofa. After repeated questioning from my mom, I showed her the empty bottle.

She gave me a glass of milk, and, upon finishing it, I upchucked my fantasy onto the basement floor.

—Dan Cook

17

After seeing Spider-Man, I left the theater in my frequent postmovie liminal mental state—in this case, the fuzzy twilight of overidentification with Tobey Maguire. I found myself roaming the streets of New York City, pressing my fingers (middle and ring) to the base of my palms. It was strangely comforting—maybe it's an acupressure point?—though I stopped short of aiming my wrists at buildings from which to swing. I am 33 years old. —Alexandra Ringe

11

When I was around seven or eight in Michigan, all the kids in the neighborhood formed a Trailer Park Wrestling Federation. It was designed to be similar to the World Wrestling Federation, except it occurred in the arena of a trailer park alleyway. (This was nearly 20 years ago, when “professional” wrestling first became popular on television.) What scares me now is that the “pile drivers” were real, as were the “clotheslines” and “neck breakers.” We bought sturdy cardboard that we made into championship belts, adorned with the titles “heavyweight” and “middleweight” in crayon. Each champion would have to defend their titles every weekend against the other eight-year-old terrors of the neighborhood. —Jeremy Stanifer

18

My twin brother and I once watched the Warriors at home on cable. The movie, at 1970s cult classic, is about an innocent gang trying to get home to their turf while another rival gang tries to incite other gangs into killing them. My brother and I got very caught up in the action and started trying some of the fight moves. I am embarrassed to say we both had roller skates and one of the gangs uses roller skates. (Very corny movie, lots of feathered hair; more like the Village People than a real gang.) The friendly wrestling escalated into an all-out fight after a few successful kicks. No serious injuries, but lots of cuts and scrapes. —Jason Hudson

8

As a youth sixty some years ago, my double-first cousin and I would listen to the radio serials every afternoon (no TV yet) and then act them out the next day in our backyards and the woods behind them: the Lone Ranger and Tonto, Captain Midnight and his young friend of the hour, and our favorites, the comic book heroes Batman and Robin. She was always the alpha male, the Lone Ranger or Batman/Bruce Wayne, while I, ten days her junior, played the subservient guy role. We still reminisce about this whenever we get together. —Buzz Ringe

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July 1, 2002

President George W. Bush  
The White House  
1600 Pennsylvania Ave. NW  
Washington, DC 20500

Dear Mr. President:

I know that you are extremely busy. I mean, who wouldn't be, what with a war against terrorism, a war against drugs, and a faltering economy. This being the case, I thought the least I could do, as an American and patriot, is to keep you abreast of some recent product developments.

Now, before you dismiss this out of hand, I would remind you that, in his 1992 bid for reelection, your father looked a bit "out of touch" with the general public when he marveled at a grocery store price scanner. While this was certainly not the only reason Bill Clinton was elected, it certainly didn't help. The appearance of being a well-informed consumer is very important to combat perceptions of elitism and distance from the people.

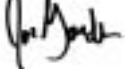
To that end, the first thing you should know about is the recent development in razors. A few years ago, Gillette turned the razor industry on its ear with the introduction of the Mach 3, the first-ever razor with three blades. While I long held out against this technological breakthrough (who needs a three-bladed razor?), my fiancée bought me one, and I must say that it does the job admirably.

Now Schick has entered the fray with the Xtream 3, and Gillette has introduced an improved version of the Mach 3, the Mach 3 Turbo. I can tell you that there really isn't a whole lot of difference between the three. They all left me with a close shave, and they all left behind a slimy residue that, once absorbed, left me with smooth silky skin.

What I can tell you is that I initially set out to find the Mach 3 Turbo at a pharmacy in the gay-friendly neighborhood of Chelsea, New York: the Mach 3 razors were sold out, but there were ample Xtream 3 razors. Suffice it to say, I don't think it is a great leap to infer that the Mach 3 razor is very popular with homosexuals. Oh, and there's a bit more pivot to the head.

I think that you will find this information helpful, Mr. President. Go team America!

Sincerely,



Mr. Joe Garden  
Product Tester-At-Large

These letters  
were sent to  
the White House.  
Garden has not  
yet received  
a response.

Joe Garden  
19 Temple Court  
Brooklyn, NY 11218

September 12, 2002

President George W. Bush  
The White House  
1600 Pennsylvania Ave. NW  
Washington, DC 20500

Dear Mr. President:

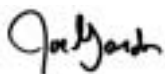
Now, I know you gave up on alcohol when you turned forty, and I applaud you for it. But you can't very well keep the White House dry, can you? One never knows when the Sultan of Brunei or Tony Blair might stop by.

By now, you've probably heard about these "premium malt beverages." There's Bacardi Silver, Sauza Diablo, Skyy Blue, Stolichnaya Citron, Smirnoff Ice, and now Jack Daniels Hard Cola. You would think they were pre-mixed cocktails with shots of liquor. That is certainly not the case. I tried three, the Sauza Diablo (tequila), the Smirnoff Ice (vodka), and the Bacardi Silver (rum), and they all tasted like Squirt or Fresca.

In short, Mr. President, 15 years ago, they had wine coolers for the quarry crowd. Now there are premium malt beverages. It's probably not necessary to have them on hand unless you are expecting a group of visiting high school essay contest winners. Go team America!



Sincerely,



Mr. Joe Garden  
Product Tester-At-Large

Dear Mr. President:

Sorry it's been so long since I last wrote. Things have been pretty crazy around here. Not like I have to tell you about busy. I mean, I'm not planning on invading any countries here (joke!).

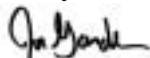
The new product of note is Funky Fries from Oreida. It's hard to imagine that one could revolutionize the french fry, especially after the shift from the 5/16-inch straight cut to the crinkle cut, but the people at Oreida have given it their best shot with these new flavors: Cinnamon and Sugar, Kool Blue, Sour Cream and Jive, Cocoa Crispers, and Crunchy Rings. (Kool Blue are shaped like regular fries, only they are blue!?!)

In all honesty, I didn't try them all, just the Cocoa Crispers and the Sour Cream and Jive. First, they aren't like conventional fries. They're like ground-up potatoes reconstituted and molded into fry shape. The SC and J were pretty good, but the Cocoa Crispers were nasty. They tasted like hot limp Cocoa Puffs. Ick!

Regardless of taste, one must ask, was there really anything wrong with french fries? Do they need to be punched up with sugar, chocolate and food coloring to get kids to eat them, at a time when obesity has reached epidemic proportions in the nation? Not that I would suggest regulating french fries. However, maybe we should return to federal endorsement of physical fitness. Who knows? I'm just throwing stuff out there.

Hope you are well rested after your vacation, and go team America!

Sincerely,



Mr. Joe Garden  
Product Tester-At-Large

# MY NEW FAVORITE THING

## Better than Beauty: A Guide to Charm

Helen Valentine and Alice Thompson  
published in 1938 by Herald's Publishing Co.,  
reissued in 2002 by Chronicle Books

As she gave me this book, my friend Eva remarked: "For something called *Better than Beauty*, they sure do spend a lot of time talking about beauty." True enough—we learn how "feet and popularity are close relations" and how to freshen up a dress by putting a new collar on it. But when Valentine and Thompson get around to charm, their advice stops being a Depression-era version of *Cosmo*. They tell us to "know where you stand on the issues of the day. Do not have the idea that you need to be a statesman or a lawyer to know whether a certain trend is vicious or helpful." (And we shouldn't take our stand from the paper—we are to "read the news with an eye for possible propaganda.") To Valentine and Thompson, the woman who fails to gather her views and subsequently "shies away from any serious discussion" is not only "one of the most boring and unsatisfactory of conversationalists" but also a damned fool, as "there is nothing in the world which, sooner or later, will not affect every human being." I don't know enough about the 1930s to say whether or not Valentine and Thompson were parroting the zeitgeist—maybe the creation of the Works Progress Administration was the buzz of the hair salon. But in 2002 their tips are often refreshingly relevant, and when not relevant at all, they're completely entertaining. —Alexandra Ringe



## Plunderphonics 69/96

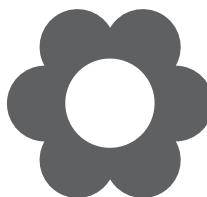
John Oswald  
Seeland double-CD set

In 1969, Canadian John Oswald recorded samples of Chuck Berry and the Beatles, then recombined them into new pieces of music that he called "plunderphonics." Although Oswald has continued to make plunderphonics for more than thirty years, his recordings have been difficult to find. In 1989, the Canadian Recording Industry Association ordered that all copies of his album *Plunderphonics* be destroyed. Nevertheless, Seeland Records has recently released *Plunderphonics 69/96*, a double-CD retrospective of Oswald's music, including most of the original *Plunderphonics* album and an extensive interview with Oswald. The set offers a wide array of styles and techniques. Glenn Gould's celebrated performance of Bach's *Goldberg Variations* is reinterpreted by a faulty computer. Bing Crosby stumbles through a pitch-bent, punch-drunk version of "White Christmas." Elvis Presley jams with Cecil Taylor. A live string quartet plays along with Metallica riffs in "mach." Most of the music on *Plunderphonics 69/96* works as heavily ironic commentary on the originals, despite Oswald's insistence that irony has no part in plunderphonics. But many of the pieces transcend the trickery of the plunderphonic concept and are compelling works that stand apart from their sources. —Chris Broderick



## Together (Tillasammans)

written and directed  
by Lukas Moodysson  
released in 2000 in Europe,  
2001 in the U.S., 106 min.,  
available on video



The best movie of 2001, *Together* is a comic drama set in 1975 at a communal house in Stockholm. Moodysson's characters and (subtitled) dialogue will please self-mocking lefties everywhere. —AR



## Enron Exposed!

published by American Media Inc. (AMI), 2002

Taken at Enron parties where employees performed skits, these photographs (marked with\*) appeared in *Enron Exposed!*, a special-issue tabloid sold at supermarkets and published by American Media Inc., the company behind *The National Enquirer*. Although *Enron Exposed!* makes no mention of its link to the *Enquirer*, it shares that newspaper's delight in detailing the Bacchanalian excesses of the rich and famous while positing itself and its readers as its subjects' clear moral superiors. According to an "AMI special investigation," life at Enron included "Frequent in-office sex parties and widespread lovemaking between gorgeous, young, on-the-make secretaries and their wealthy bosses," like CEO Jeffrey Skilling. He left his wife for his secretary "who was quickly promoted to a \$600,000 job." But in the eyes of AMI, Skilling, Kenneth Lay, and CFO Andrew Fastow are more than the typical *Enquirer* fallen idols—these guys are blackhearted villains largely responsible for the Enron "catastrophe, in which hundreds of innocent employees lost their jobs and many thousands of innocent investors lost their life savings." *Enron Exposed!* even takes some shots at the system, with an alphabetical list of more than 500 mutual funds that invested in Enron and the amount of money each one lost; a map of the U.S. showing the states whose pension funds got hit by Enron, i.e. "Texas teacher retirement system/\$24 M"; and this warning: "not only do companies take great liberties in their accounting practices, but you can't trust analysts to protect your investments." Besides breeding deep skepticism about the market, *Enron Exposed!* urges us to blow those whistles, citing ethics expert Nan DeMars: "The sad thing is that the whole Enron debacle could have been prevented by people on the inside—the ordinary employees... But instead of taking the moral high road, the Enron insiders stood by quietly, got paid, and went home." —AR

## 99 Cents Plus, Shore Dollar, One Dollar Market, Jack's 99 Cent Store, 99 Cents or Less, et al.

Here's what I love: picking through the detritus of capitalism. Here's where I love to do it: my own local dollar store and the dollar stores of any American town I happen to visit. Here's why: I find objects that I never knew existed but that I suddenly adore. I'm talking about my 1st Date-brand soap (it works, and it's not too smelly), my "hand-painted" [sic] rooster oil from China, my pale blue ultra-thin and therefore quick-drying washcloths, and my nerd angel pen (she's got the halo and giant black glasses) that doubles as a bubble wand and lights up when you write with it. Such discoveries are made all the sweeter by the feeling that I'm somehow pulling one over on the companies whose products I'm supposed to be buying.

Even if I don't acquire anything of use or beauty, I always enjoy the dollar store as a trip to the Manufacturers' Museum of Desperation and Folly. Someone thought that a fake-gold teddy bear pin with rhinestone eyes and a fake-silver bowtie would sell if it were labeled "Exotica" and "New York – Paris – Milan." Someone believed that America wanted a picture frame in the shape of a pair of pants with the spot for the photo placed squarely in the crotch. Someone bet that demographic trends demanded party invitations that say "The Divorce Is Final!" Someone realized that I needed a dollar store, and that time, someone was right. —AR



## Badly-Drawn Comics

written and illustrated by Martha Keavney, available at [badlydrawncomics.com](http://badlydrawncomics.com)

I became friends with Martha Keavney after reading issue #6 of *Badly-Drawn Comics*. Although I can't guarantee that the same thing will happen to you, I recommend that you make her acquaintance by buying first the new issue (#8) and then, once you're hooked, the back issues. Here is a woman who has anthropomorphized *The Uncaring Universe* by giving him a tiny little suit and an enormous head with planets on it. Here is a woman who gives us the ultimate dead-end job: the boss orders his worker to convert oxygen into carbon dioxide while thinking the following thoughts over and over: "1. I suck. 2. Where did I put my keys? 3. Better do some laundry today. 4. I'm such a fucking asshole." Here is a woman who has made a naturally-occurring lady substance into a secret weapon. You won't be sorry. —AR

**"Lisa's Got Hives," "Pinkarama,"  
"I Believe in Killing Time,"  
and other bootlegs**

You might have listened to or read about "bootlegs" or "mash-ups"—music that is created by combining tracks from at least two preexisting songs. The vocal track from, say, Destiny's Child's "Bootylicious," is put to the instrumental track from, say, Nirvana's "Smells Like Teen Spirit." When it works, as it does with the aforementioned "Smells Like Booty" (<http://www.u-g-s.com/MP3>) bootlegging rehabilitates crappy, overplayed pop songs and makes them fascinating and addictive. And free—most mash-ups can be accessed online at no charge.

Although bootlegging is simultaneously breaking copyright law and getting lots of media attention, no one has sued anyone yet. But the pressure is there: sites offering mash-ups come and go, often because web servers shut them down for fear of hosting bait for litigious record labels.

To keep up with the latest bootlegs and where to find them, visit the message board at <http://gybo.proboards4.com>. For a more direct taste of the genre, check out the mash-ups below. Of the hundreds I've heard, they're the ones I keep coming back to.

**"Lisa's Got Hives"**

([http://perso.wanadoo.fr/lisalopes/special\\_r.htm](http://perso.wanadoo.fr/lisalopes/special_r.htm)) This mix by Conway, featuring Lisa "Left-Eye" Lopez accompanied by the Hives, is the best way to appreciate the Hives' derivative brand of rock: with a terrific pop-rap vocal on top. The combination puts every white-boy rap-metal band to shame with the unspoken question, "Why aren't you nearly this good?"

**"Pinkarama"**

([www.ikarus.pwp.blueyonder.co.uk/boots.html](http://www.ikarus.pwp.blueyonder.co.uk/boots.html)) Joe Logic mixed Pink's "Get the Party Started" with the theme from Futurama. It works so well that I, never having heard the Pink song, didn't realize that he'd sped up Pink to twice her original tempo. I downloaded her version, and it drags like crazy—clearly not the sound of someone who would inspire anyone to get a party started. Download the bootleg instead.

**"I Believe in Killing Time"**

([www.gohomeproductions.co.uk](http://www.gohomeproductions.co.uk))

Go Home Productions makes great bootlegs, though they don't keep them online very long. (They do re-post old files on request.) This one is Cher's "Believe" mixed with Echo and the Bunnymen's "The Killing Moon." The result is nothing short of miraculous, as I swore I never wanted to hear "Believe" ever again, ever. Ever. —Francis Heaney



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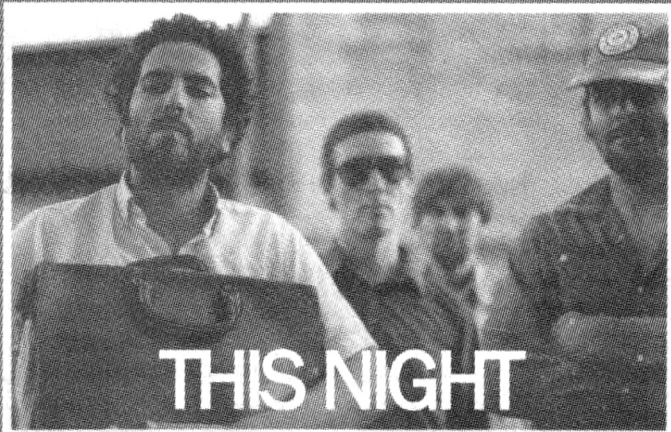


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[www.mergerecords.com](http://www.mergerecords.com)

Years ago, I tried doing one kind of thing and it ended up being quite another. Like this ad, for example.

I tried a multiple tile scheme, using an ancient rendition of the 'AUM' symbol. I actually did complete the layout, and it looked quite nice.

However, I was not able to adjust the contrast on this simple tiff file I had created. Pretty magnificent file corruption at work. There I was, needing to change levels so that the ancient symbols could do proper battle against dot gain and pop off the page in unison, compelling you to check this out:

[www.aumfidelity.com](http://www.aumfidelity.com)

So, I hope that happens, anyways. Be well, and treat others likewise.

# guinea pigZero

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# SO WHAT DO I DO ABOUT IT?

BY  
KIMBERLY  
STEDMAN

“But fighting the corporate juggernaut makes me bitter,” you say. Well, it need not. Copyright laws are fun to mess with because they’re just so wrong—selfish, shallow, and impractical.

## “HERE ARE FIVE WAYS TO HELP:

**1. KNOW THE ALTERNATIVES.** We need a fundamental shift in perspective towards group-level creativity, cultural progress, and consumer rights. That means, among other things, a serious reversal of chronic copyright term extension. There are scores of organizations and individual proponents of copyright law overhaul whose ideas are strong and practical. Lawrence Lessing, for example, suggests that we reduce copyright terms to five years, renewable fifteen times (with software renewable only once). DigitalConsumer ([digitalconsumer.org](http://digitalconsumer.org)) is trying to get Congress to pass a Consumer Technology Bill of Rights, that includes the right to make backup copies, record media for later playback, or watch a DVD on whatever operating system you choose.

**2. EDUCATE.** If you read up on copyright law and talk with activists, you’ll find no shortage of good ideas, but the linchpin is educating people. Consider volunteering for Digital Consumer. Better yet, put a link on your web site or in your email sig file. Try putting together a fund-raiser, maybe a bake sale of “copyrighted” and “open-source” muffins at your local college campus or a neighborhood meeting. The copyrighted muffins should cost way more and customers should be prohibited from warming them up or putting butter on them. The open-source muffins have the recipe attached and maybe a little background information about copyright law.

**3. SHARE STUFF, BOTH IDEAS AND MATERIAL GOODS.** Copyright (and consumerism in general) comes from an almost neurotic possessiveness. When we reject it, we’re fighting not only the laws but the sociological tide behind them. Groups like PublicKnowledge ([publicknowledge.org](http://publicknowledge.org)) and Creative Commons ([creativecommons.org](http://creativecommons.org)) are working to foster pools of “open source” or public domain information and artistic works. Creative Commons, for example, has a wonderful system of “Some Rights Reserved” alternative copyright symbols and licensing tools. Once completed (predicted release in autumn, 2002), this system will help creators define their own terms of distribution and provide the legal and digital code to make it official.

Of course, much of the fun in fighting copyright law comes from actively mocking or protesting the laws. Learn what’s legal and what’s not and push that envelope. Experiment with a little borderline infringement for fun and nonprofit: make collages, sample records, burn mixed CDs for your friends. Take advantage of the Fair Use clause, reproducing copyrighted material to educate others. Also take advantage of the “First Sale” clause, which permits consumers to re-sell a used book without paying more royalties. Keep passing stuff around. But:

**4. SUPPORT ARTISTS.** Copyright laws were invented to encourage people to create; the last thing we want is to make artists the casualties of our fight against them. Give credit where credit (and money) is due. When you copy your favorite CD for a friend, send the band a couple of bucks directly. Also, patronize independent and artist-run labels (i.e. Righteous Babe, Discord)—that way, you cut out the middlemen.

**5. INVENT YOUR OWN WAYS TO REBEL.** Look at D.S. Touretzky’s “Gallery of CSS Descramblers” for an excellent example of the ways the programmer community has fought back against a lousy law, the Digital Millennium Copyright Act (See page 21 and [www.cs.cmu.edu/~dst/DeCSS/Gallery](http://www.cs.cmu.edu/~dst/DeCSS/Gallery)).

If that’s not enough for you, follow DigitalConsumer’s “get active” link for half a dozen good starter ideas, including a number of lobbying efforts to which you can contribute with very little effort. Electronic Frontier Foundation’s web site ([www.eff.org](http://www.eff.org)) provides a score of additional options. Or contact any of the organizations listed above, and they will undoubtedly know how to use your help.

STAY FREE! TWENTY

CON



*Cruel*



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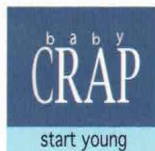
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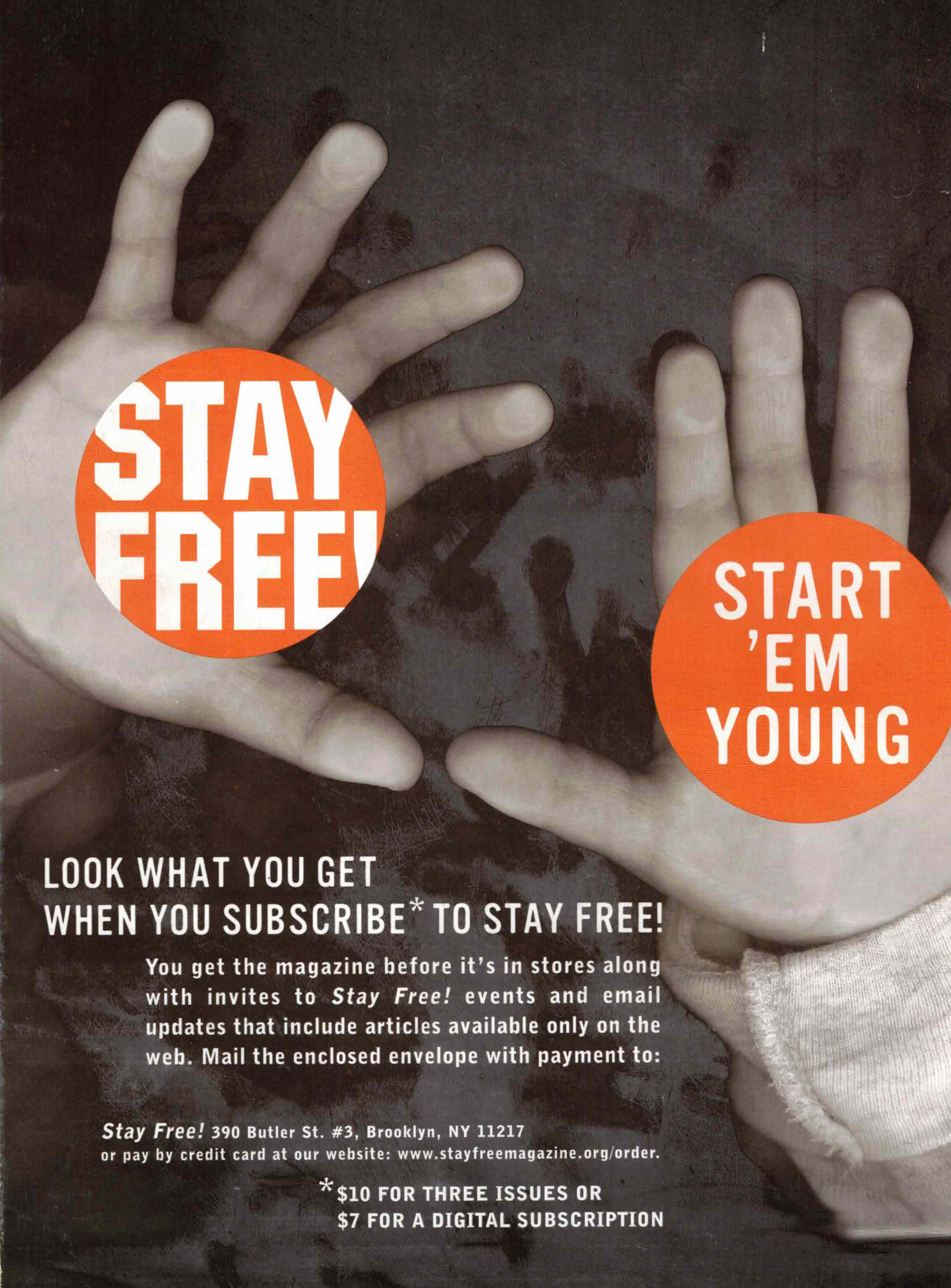
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A black and white photograph of two hands, palms facing up, against a dark, textured background. Overlaid on the left hand is a large orange circle with the words 'STAY FREE!' in white, bold, sans-serif capital letters. Overlaid on the right hand is a similar orange circle with the words 'START 'EM YOUNG' in white, bold, sans-serif capital letters.

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